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Private and Public Dilemmas: A Feminist Defense of Liberal Theory

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PRIVATE AND PUBLIC DILEMMAS:
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CHAPTER I

INTRODUCTION: THE FEMINIST CRITIQUE OF LIBERAL POLITICAL THOUGHT

The roots of feminism as an organized philosophical and political movement lie in liberalism. Liberalism's emphasis on individual rights, as opposed to obligations, creates an environment conducive to the political aspirations of many disenfranchised groups. Thus feminism, loosely understood as any attempt to "end women's subordination" (Jaggar 1983, 5), originated in claims by women to equal political rights within liberal society. Recently, however, many feminists have rejected liberalism, claiming that although liberalism initiated the feminist movement, it no longer adequately addresses women's emancipatory concerns. Indeed, some feminists claim that liberalism is itself merely a vehicle of patriarchy.

Many feminists use the term "patriarchy" to identify the systematic oppression of women in all areas of life. Feminists adopted this term from an older usage which designates the father's rule over his children. According to Kate Millett (1970, 25), "the principles of patriarchy appear to be two-fold: male shall dominate female, elder shall dominate younger." In attacking patriarchy, feminism extends

liberalism's emancipatory project. As liberalism undermines paternalism in politics, feminism challenges the rule of female by male. This extension of the liberal ethic revealed, according to many feminists, a limitation and contradiction in liberalism itself (see Jaggar 1983; Eisenstein 1981; Elshtain 1981; Hirschmann 1992; Pateman 1988; Young 1990). Because liberalism rests on the assumption that the family is a private institution, largely outside political control, and because "patriarchy's chief institution is the family" (Millett 1970, 33), liberalism effectively leaves women captive within patriarchal family life. In particular, some feminists charge that the liberal understanding of family, and its relationship to politics, cannot adequately address the demands of women's biological, cultural and historical situation. Other feminists claim that liberalism's distinction between private and public eliminates women's unique moral voices from political discourse. Although liberalism's promise of individual freedom and equality invigorated women's aspirations, many feminists believe that this promise cannot be fulfilled within liberalism's understanding of the distinction between private and public (see Jaggar 1983; Eisenstein 1981; Elshtain 1981; Hirschmann 1992; Pateman 1988; Young 1990).

Liberalism's distinction between private and public is precisely what many feminists find most troubling: one's role in the family necessarily has consequences for one's position

as a citizen. According to these feminists, family relations are not free from coercion and therefore cannot simply be relegated to the private sphere as liberalism conceives of it. These anti-liberal feminists claim liberalism has been blind to and thus legitimized the inequalities in family relations. As Pateman (1987, 103) notes, "feminist criticism is primarily directed at the separation and opposition between the public and private spheres in liberal theory and practice."

In this way, feminism extends and revolutionizes Marx's critique of liberalism. Marxism unmasked the relations of coercion inherent to capitalist economy, but failed in its emphasis on class structure to address women's subordination in the family independently of class. Feminism argues, on the other hand, that political equality demands at least some standard of both economic and familial equality (Nicholson 1986, 3-4, 201-203).

Linda Nicholson traces the historically evolving nature of private and public in Gender and History. Nicholson claims that "liberalism and marxism are manifestations of the changing dynamic between private and public in the seventeenth and nineteenth centuries, respectively," and that "feminism is a manifestation of the changing dynamic between these spheres in the nineteenth and twentieth century" (1986, 4). In her view, the decreasing role of kinship in politics resulted in liberalism's bifurcation of the private (family) and political. Marxism redefined the private and public distinction,

identifying the relations of domination in the capitalist economy and removing them from the private, non-political sphere (1986, 201-203). Feminism also redefines the private and public distinction identifying the relations of domination in the family (1986, 3-4).

Feminism exposes the relations of domination endemic to the family, although individual feminists have analyzed these bases on different terms. Susan Moller Okin (1979), in her ground-breaking Women in Western Political Thought, laid the foundation for the continuing feminist elaboration on the relationship between the private and public and its implications for woman's position in society. Through an exegesis of the works of Plato, Aristotle, Rousseau and Mill, Okin discovers that because these thinkers continually define "woman" in terms of "family," true feminist reforms within the framework of these philosophies is limited, if not impossible.[1] Even the feminist liberal thought of John Stuart Mill fails to effectively address women's demands for equality, according to Okin. Although Mill posits that there exists "no natural inequality between the sexes," he consistently ties women to their roles as wives and mothers (Okin 1979, 227-228). Mill refuses to allow women to relinquish their domestic duties and fails to recognize the implications of

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[1]The notable exception to this synthesis of woman with family is, of course, Plato's Republic. Plato does, however, resurrect this synthesis in The Laws.

this burden for the possibility of women sharing equal political power with men.

Other feminists, building on Okin's original work, extend the critique of private and public in liberalism to include a critique of distinctions between man/woman, power/morality, and politics/family (Pateman 1987, 109). Zillah Eisenstein (1981, 223) identifies the private and public with woman and man:

> Because of the patriarchal origins of this distinction, the state is identified as the male and public world, and the family is defined as the female and private world. The rule by men is formalized by the state because this division of public and private life is at one and the same time a male/female distinction. On the basis of this distinction, ideology identifies the realm of female, family, private life, as outside political life and the domain of the state.

Eisenstein argues that the public-private distinction merely reiterates, in a sophisticated "mystified" way, patriarchal oppression. In her view, the public-private distinction covertly maintains female subordination in the face of individual--male--liberty. Liberalism perpetuates and supports women's oppression by disallowing political means to attack women's subordination in the family, in language and in the market. By "reify(ing)" the distinction between familial and political life, liberalism institutionalizes woman's oppression by man (Eisenstein 1981, 44).

Jean Bethke Elshtain criticizes liberalism on yet another ground, the association of public with power and private with

moral.[2] She traces the demarcation between public-private in liberal tradition to a deeper distinction between reason and feeling (Elshtain 1981, 116-117). Liberalism identifies politics with the realm of reason, self-interest, calculation; it identifies the private--the family--with the realm of nurturance, responsibility and love. This aspect of public-private in liberalism Elshtain finds both dysfunctional and sexist.

In this view, the problem with liberalism is two-fold in that liberalism both confines this compassionate nature to the non-political and in doing so relegates women to an inferior private sphere. The solution argues Elshtain, is not to politicize the family but to feminize the political. She hopes for a "politics of compassion" (Elshtain 1981, 348-349) in which:

> the activation of a female participatory capability must begin with her immediate concerns, go on to give a robust account of them, and then bring these concerns to a transformed vision of the political community.

Arlene Saxonhouse poses yet another challenge for liberalism through her examination of premodern political thought. The premoderns, ranging from Plato to Machiavelli (to the extent that the latter is premodern) taught us that the private is political, that politics rests on a foundation

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[2]Pateman (1987) suggests power and morality as one framework for understanding the feminist critique of public and private.

laid by the family. Woman and family play a central, albeit subordinate, part in the political thought of the premoderns.

> Both male and female are necessary for the existence of the whole. Preliberal thought acknowledges the differences between the sexes and attempts to work with that difference, sometimes for better and sometimes for worse, to build coherent, stable political communities. (Saxonhouse 1985, 9)

Liberalism, which distinguishes clearly between the public and the private, celebrating the individual's exploitation of the private realm (in that endless search for goods) poses a paradox for the advancement of women. Saxonhouse distinguishes between private and public in a substantially different way than Elshtain. According to Saxonhouse, whereas in premodern times virtue (public) rested upon partiality (private), the elimination of a consideration of virtue in modernity transformed the public and private into two competing channels for the actualization of self-interest. Liberalism pushes men back into the realm of traditionally female economic (in ancient terms "household") matters. In identifying both the public and private with self-interest, liberalism eliminates differences between people in the public realm but also displaces woman from her traditional location, the private, without providing and adequate foundation for her integration within the public realm.

> As both public and private realms become arenas for male activity in the theoretical perspective of liberalism, the female, whose previous stature had been guardian of the private realm, was denied any significant place in the portrait of society. (Saxonhouse 1985, 15)

This dissertation defends liberalism against those feminists who would jettison it as necessarily implicated in patriarchy (Eisenstein 1981; Elshtain 1981; Hirschmann 1992; Jaggar 1983; Nicholson 1986; Young 1990). In adopting a feminist perspective, I seek, in this dissertation, to defend liberalism as compatible with feminism. I defend liberalism as potentially feminist against those feminists who dismiss it as irretrievable patriarchal. Specifically, I argue that the patriarchal aspects of liberalism are historically contingent, that liberalism can effectively address patriarchy and still remain liberalism.

In opening the family to politics, some feminists endanger individual integrity. In families, individuals express personal, uniquely chosen, ends; as such, families require a degree of autonomy from external coercion. In challenging the liberal distinction between private and public, some feminists lose the security that distinction offers individuals, in and out of families. Liberalism provides a model for battling familial inequities and their economic and political implications while preserving individual autonomy. Liberalism, I argue, allows for a consideration of these concerns without losing sight of individuals and their need for autonomy within their own family.

Although the demarcation of private and public arenas varies among different liberals, the aim remains the same: to secure individual autonomy. John Locke, writing to defend the

individual from an oppressive monarch and an established Church, distinguishes the public (politics) from the civil and the private (marriage, family, economics, religion) in an attempt to restrict the boundaries of legitimate state authority. John Stuart Mill, writing in a time and place where civil liberties had been widely accepted, sought to protect the individual from a new danger--the tyranny of majority opinion. Mill seeks to protect the individual from the majority by delineating certain domains (e.g., freedom of speech) where the individual is sovereign. These freedoms must be respected regardless of the "likings and dislikings" of the majority. In the twentieth-century, John Rawls faced quite a different threat to individual self-actualization--economic inequality. Rawls' welfare liberalism attempts to reconcile individual autonomy with economic disparity by redefining some economic concerns as political concerns.

Regardless of the actual content of private and public in different liberal formulations, the private is identified with the freedom of individual action necessary to ensure autonomy, the public with the concessions of individuals living in groups. To limit and control coercion, to protect and maximize individual liberty, liberalism relegates political authority to certain arenas and labels other arenas as private, as beyond political control. Despite the fluctuating definitions of private and public (Nicholson 1986, 4), and despite the historically ambiguous nature of those definitions

(Pateman 1979, 103), liberalism explicitly and implicitly categorizes domains of various activities which it treats differently. It does this in order to allow for maximum liberty within a variety of social contexts. Liberalism creates an arena free from coercion (the private), and organizes the public so as to minimize its coercive potential.

Both the private and public aim toward one end: the enhancement of individual autonomy. The adaptable nature of private and public in different liberal expressions allows it to face a variety of threats to individual liberty, whether those threats arise from within or without the political arena. Liberalism implicitly recognizes that a certain balance is required in the relationship between the familial, economic and political spheres if individual autonomy is to be maintained. In particular, the pull between public and private in liberalism reflects a pull between universality/partiality in each person. Just as each person must balance the needs of her/his own family with the needs of the community at large, liberalism represents a continual struggle to balance private and public in the face of changing circumstances (Kirp 1986, 18).

An examination of the dynamics of private and public in the evolution of liberal thought can help liberalism meet the challenges of feminists who claim that liberalism denies the reality that women live each day--the overlap between public aspirations and private responsibilities (Pateman 1987, 117).

Specifically, liberal political thought provides feminism with a paradigm for understanding the meaning of different spheres of human activity[3] while still allowing for an attack on patriarchy. Some feminists, in stressing "patriarchy," come close to defining all spheres of human activity in terms of male power, all heterosexual relationships in terms of domination (Landes 1982, 125). The liberal paradigm can help recapture the differences between power and love in both politics and family while admitting that considerable overlap exists and that patriarchy touches both.

Liberalism allows for an understanding of the intersections between family and politics, private and public, while accounting for the differences between them. My relationship with my neighbor or an acquaintance differs significantly from my relationship with my sister, my spouse or my child. Liberalism recognizes the integrally distinctive nature of each realm while still allowing for a dialogue between them. So as Elshtain argues that we can transform politics through compassion, I would argue that the gentle, responsible, giving creature Elshtain depicts as original and distinctive to the family unit cannot survive translation to the political realm. Liberalism reflects a pull between reason (power) and emotion

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[3]See Walzer's Spheres of Justice for a thoughtful discussion of these different spheres and their overlap. Particularly note his discussion on "dominance" and "kinship and love." Okin in Justice, Gender and the Family also suggests that Walzer will be of particular help in the area, although she elaborates what she sees as major concerns with his feminism.

(nurturance) in each individual, and not necessarily between the sexes. The tension between reason, power and love is not only a tension between the different sexes but also within each individual.

Finally, liberalism offers a picture of the individual as a responsible, reasonable actor and a vision for enhancing reflexive action. Whereas some feminist histories draw a picture of women as unwitting innocent victims of patriarchy who suddenly gain control of their destinies through the miracles of birth control,[4] liberalism constructs a system in which the individual accepts, and politics enhances, responsibility. Liberalism provides a model for encouraging individual responsibility while mitigating oppressive personal and social inequalities.

This project builds, most directly, upon the work of Okin. In Justice, Gender, and the Family, Okin (1989a) suggests that certain twentieth century liberals, particularly Rawls, can be used, selectively, to meet feminist familial concerns. This dissertation builds on Okin's suggestion while tying the liberalism of Rawls to the larger tradition of liberalism itself--a tie which Okin neglects.[5] In addition, this dissertation adopts a "spheres of justice" approach to politics and human life, articulated by Walzer (1983). Unlike

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[4]See, for example, O'Brien (1981).

[5]Note Okin's stinging criticism of Mill in Women in Western Political Philosophy (1979).

Walzer, I find this understanding of multiple spheres of activities to be compatible with, and informed by, liberalism and its understanding of the individual participating in a variety of relationships.

In conclusion, feminist political thought lacks a coherent, systematic examination of private and public in the liberal tradition. The works of John Locke (classical liberalism), John Stuart Mill (modern liberalism) and John Rawls (welfare liberalism) serve as the foremost expressions of the various liberal traditions and should reveal both the universal and relative nature of private and public in liberalism. A coherent identification of the similarities among and the differences between private and public manifestations in these expressions of liberalism should allow a separation of the inherent--from the incidental--character of public and private. This study clarifies the political implications of the feminist project while revealing the latent potential within liberalism for meeting this newly identified challenge to individual liberty--gender.

This task will be accomplished in four steps. Chapter 1, "Locke and Patriarchy," explores the classical liberalism of John Locke as a response to premodern patriarchy. Placing Locke's distinction between private and public in historical perspective reveals his attempt to protect individual autonomy from patriarchy. A look at Locke's foundation for politics in consent provides an opportunity for questioning the

responsible actor notion in liberalism. An elaboration of Locke's different purposes and meanings of authority demonstrates at least a rudimentary understanding of the variety of different relationships (e.g., marital, parental, economic and political) in life. Furthermore, Locke's distinction of social from political, not merely private, may reveal the depth of understanding of the complexity of human relations in even this early liberal expression.

Chapter 2, "Mill and Feminism," analyzes Mill's nineteenth century liberalism as both a unique response to particular historical threats to individual autonomy and as a continuation of the liberal project revealed in Locke. Special attention is paid to Mill's demarcation of certain areas of autonomy and their implications for feminist concerns with the family. Specifically, I ask if Mill's liberalism carries consequences for women's emancipatory concerns which he may not have carried to their fruition in his own feminist writing.

Chapter 3, "Rawls and Gender Justice," assesses Rawls' Theory of Justice in light of the theme, gender justice. Can Rawls' "original position" and "veil of ignorance" accommodate the liberation of both sexes? Can Rawls' abstract individualism be reconciled with women's actual, historical oppression? In particular, this chapter argues that Rawls distinguishes between private and public in a way that is both helpful to

women's emancipation, and maintains the liberal concern for privacy and individual choice.

Finally, the conclusion, "The Liberal and Feminist Paradigm: Are the Two Mutually Exclusive?" illustrates the historically evolving nature of liberalism, and the private and public distinction as inherent to and as the product of that evolution. That chapter delineates the implications of this project for both the feminist and liberal paradigm. I argue that feminism must acknowledge and return to its liberal heritage if it hopes to reconcile sexual equality with individual freedom.

Using a feminist perspective, my approach relies on textual exegesis and historical analysis. As Myra Jehlen (1982, 189) explains,

> Feminist thinking is really rethinking, an examination of the way certain assumptions about women and female character enter into the fundamental assumptions that organize all our thinking.

Feminism reclaims women's experience in society, politics, history and language. Through textual criticism and historical analysis I investigate both women's inherent and incidental status in liberalism and the implications of that status. My focus differs from other feminist explorations in its concentration on the historically evolving nature of liberalism and the dynamics of private and public within liberalism.

CHAPTER II

LOCKE AND PATRIARCHY

As one of the founders of liberalism John Locke's political thought offers an opportunity to analyze and criticize key liberal assumptions. Individuality, rationality, family, and most importantly, the distinction between private and public life provide a focal point for the feminist critique of Locke and liberalism. Indeed, feminists target Locke as the first political theorist to explicitly separate private family from public politics and use his thought as an indication of the repercussions of that separation for women given their unique positions within families, the economy, and politics. Feminists ask whether Locke's distinction between private and public furthers or hinders women's emancipatory goals.[1]

Feminists read Locke with two goals in mind. Most simply, they hope to expose the assumptions about and implications for women evident in Locke's liberalism. More profoundly, they seek to reveal something integral to Locke's liberalism--and liberalism in general--which becomes apparent when

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[1]For an interesting discussion of Locke's place in the history of the evolution of private and public, see Nicholson (1986).

one reads Locke with woman's unique personal, familial, economic, and political experiences in mind. Decentering man and putting woman at the center of Locke's political philosophy discloses, for many feminists, the assumptions and subsequent limits of Lockean freedom and equality. On this basis, Nancy Hirschmann (1989, 1242) writes that "a feminist method profoundly alters the very terms of the discourse" in liberalism and concludes that "the context must be changed" in order for politics to adequately understand and address women's concerns. In fact, many feminists conclude that women simply do not, and cannot, fit into Locke's schema of freedom and equality; that is, Locke's thought on equality, autonomy and individuality fails to address women's actual biological and historical circumstances. For many feminists, reading Locke from a woman's perspective reveals an internal contradiction in Locke's liberalism which neither he nor liberalism in general can resolve (see e.g., Elshtain 1981; Eisenstein 1981; Jaggar 1983; Nicholson 1986; Pateman 1987).

These feminists find this internal contradiction most apparent in Locke's argument against patriarchy. As feminists correctly point out, patriarchy supports both paternalism in politics and the family. Patriarchy not only demands that older rule younger but also that male rule female. Locke's own argument against patriarchy addresses only the former (older rule of younger) while failing to challenge, and even buttressing, the latter (male rule of female). Locke manages

to do this by distinguishing between a public sphere (politics) where men are regarded as adults and a private sphere (in particular, the family) where men rule as "the abler and the stronger" (II, 82).[2] This feminist reading of Locke concludes that Locke's liberalism can never deliver on its promise of equality and autonomy because Locke's argument against patriarchy goes neither far nor deep enough. While challenging the authority of one patriarch (the King) he justifies the authority of many (fathers and husbands). In distinguishing private family from politics Locke manages to free adult men while leaving women enslaved (see, in particular, Pateman 1988; see also Clark 1979; Coole 1988).

The feminist critique of Locke centers on his distinction between public and private which, these feminists claim, allows him to liberate men while subordinating women. Some feminists look closely at Locke's thought on woman as wife, mother and laborer, and conclude that Locke's promise of public freedom and equality conflicts with his particular understanding of the private patriarchal family and woman's place in it. More specifically, these feminists claim that the individual Locke frees is biologically and socially male; that Locke eliminates political patriarchy while salvaging

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[2]Hereafter Locke's works will be cited as follows: An Essay Concerning Human Understanding as Essay, Book #, Section #, paragraph #; A Letter Concerning Toleration as Letter, page #; Two Treatises of Government as I, paragraph # and II, paragraph #; and Some Thoughts Concerning Education as STCE, Paragraph #.

familial patriarchy; that Locke's assumptions about property and rationality and women's economic position effectively undermine any possibility of sexual equality; and finally, that Locke's distinction between private and public brings all these facets of women's oppression together in a systematic, albeit "mystified" (Eisenstein 1981, 49) paradigm. In sum, these feminists critique Locke from all sides, finding Locke's philosophy inadequate to meet women's unique circumstances, arguing that putting woman into her appropriate biological, familial, economic and political context undermines any pretense of freedom and equality in Locke's thought. Locke's distinction between private and public cements women's oppression in all spheres of human activity.[3]

This chapter argues that Locke's feminist critics misread Locke and misinterpret his distinction between public and private. These anti-liberal feminists claim that the

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[3]Thus this chapter as well as the feminist critique of Locke goes well beyond his sexually biased language; that is, the question is not simply whether he used "man" or "he" in a generic or sexually specific way. Interestingly, Locke elaborates the meaning of "man" in distinguishing "man" from "person" in his Essay Concerning Human Understanding. According to John Yolton he identifies the former with the "sameness of life in a biological organism" and the latter with a person aware of "one's actions and thoughts" (1964, 17). Locke himself refers to the "Species of Man" (Locke's emphasis) (Essay, III, 6, 26). Probably, Locke used the pronoun "he" in both specific and non-specific ways. In Some Thoughts Concerning Education Locke uses the pronoun "he" throughout, with the exception of a few examples solely applicable to daughters, but also indicates in correspondence to Mrs. Clark that the educational advice given in that work applies almost wholly to daughters as well (Eisenstein 1981, 48).

public-private distinction is founded, directly or indirectly, in male-female differences, thereby relegating women to the private sphere. Particular feminists characterize the public and private distinction differently, as one between reason and passion (Elshtain 1981), or politics and family/economy (Eisenstein 1981), or politics and marriage, "male sex right" (Pateman 1988), but behind all these characterizations looms what each considers fundamental or socially constructed differences between the sexes. The real dichotomy behind Locke's public-private distinction, however, is not male-female but adult-child. Locke's anti-paternalism underlies his identification of a variety of spheres (e.g., politics, religion, the economy and the family) where persons interact as adults. Clearly, children cannot and should not be treated as adults. Locke's distinction between family and politics reflects this child-adult difference.

Furthermore, what some feminists represent as a dichotomy between public and private is actually for Locke a multitude of interacting and partially integrated spheres in which individuals act. An examination of these various spheres reveals a latent potential in Locke's philosophy for addressing women's particular circumstances. Locke distinguishes private spheres--family, religion, economy--from the public, political sphere in an attempt to further the understanding of

each unique relationship and to guard against authority in one sphere inappropriately seeping into another.[4]

> (T)he Power of a Magistrate over a Subject, may be distinguished from that of a Father over his Children, a Master over his Servant, a Husband over his Wife, and a Lord over his Slave.... It may help us to distinguish these Powers one from another, and show the difference betwixt a Ruler of a Commonwealth, a Father of a Family, and a Captain of a Galley. (II, 2)

Locke explores the dynamics at work in a number of different spheres of human relationships and attempts to balance the needs of both equality and liberty within and between each sphere. He also indicates an understanding of the impact of each sphere on another: rather than isolating each sphere from the others he demonstrates the necessity of diminishing inequalities of one sphere to affect opportunities for equality in another.

In sum, the feminist critique of Locke has neglected the more radical strains in Locke's thought. These come into focus when one interprets Locke's distinction between private and public as an expression of the competing needs and rights of a multitude of spheres and when one understands these spheres within the context of adult liberty and parental

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[4]See Walzer (1983) for a recent exploration of the distinctions between various private and public spheres. Walzer, like Locke, guards against "domination" in one sphere inappropriately influencing relationships in another. For example, one should not be able to buy political office; economic dominance should not translate into political dominance.

nurturance.[5] More specifically, depicting Locke's politics as isolated from familial and religious concerns leads some feminists to mistakenly conclude that materialistic hedonism grounds Locke's politics (see, in particular, Elshtain 1981). Representing Locke's distinction between private and public as dichotomous leads other feminists to conclude mistakenly that Locke's political theory fails to provide an avenue for the understanding and amelioration of women's private subordination (see, among others, Coole 1988; Nicholson 1986; Pateman 1987).

Not only do some feminists misread Locke and underestimate the radical potential in his work, their rejection of the liberal distinction between private and public leaves the feminist project vulnerable to a tyranny as great as male tyrannical rule over female. Some feminists undermine the distinction between private and public activities without suggesting or sketching a suitable alternative conception of either family or politics or the differences between each. Although the personal carries political implications, the personal is not political. To conceive of it as such opens the family to tyrannical intrusions from a (compassionate?) political system. Families are by their nature private. Locke does not arbitrarily label them as such. The family

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[5]Contemporary scholarship has focused on these more radical strains in Locke without specifically exploring the ramifications for feminism. See, for example, Ashcraft (1987).

functions not only as a financial unit, but also, and perhaps more importantly, as an emotional unit where love can override interest and giving can take place without a constant concern for reciprocity.[6] To politicize this love beyond family dilutes it to such an extent as to destroy it.[7] Love, by its nature, is prejudiced, unequal (Walzer, 229) not universal or generalized.

Family arrangements, marital arrangements, demand a certain degree of personal choice free from the demands of political dictates. Regulation of the give and take in family and marital exchanges would destroy the free expression of the love that takes place within families. Demands for equality limit the choices of individuals in their interpersonal behavior. A demand for equality within the family, by its nature, denies liberty. In seeking to destroy Locke's distinction between private and public, some feminists fail to provide a protection for the free, prejudiced and unequal, expression of love.

None of this denies that politics necessarily affects families, or that any political philosophy must recognize and constructively regulate the impact of each sphere on the other. However, I argue that any interference of one sphere into another should not only be limited, but also should

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[6]See Walzer (1983) discussion of the family as an emotional/financial unit.

[7]See Aristotle's critique of Plato's Republic in Politics, Ernest Barker, ed. (1979, Bk. 2, Chap. 3, 43-45).

respect the unique nature of that other sphere. Locke's identification of separate, yet interacting, spheres of activities is crucially important to the feminist project of human emancipation as a necessary protection against tyranny. Whereas some feminists argue that Locke's philosophy of liberty is ultimately a philosophy of patriarchy, I argue that Locke's anti-paternalism, his distinction between private and public, can be harnessed by feminists in the struggle for freedom and equality, despite the fact that Locke himself often failed to delineate the radical potential within his own principles. Locke's thought on personhood, marriage and family, the economy, and most importantly, private and public relationships, all demonstrate Locke's principles of emancipation and egalitarianism.

The purpose of this first chapter is not to paint Locke as a feminist, or even as a precursor of feminism (indeed the term feminist in this context would be an anachronism) but rather to fully examine some of his more radical thought on gender and family and demonstrate that liberalism itself can accommodate both male and female demands for liberty and equality. Demonstrating the principles of liberty and equality at work in a multitude of spheres highlights this radical potential and guides this chapter. By emphasizing the more radical aspects of Locke's thought with respect to women, this chapter hopes to draw attention to the sexually liberating potential in classical liberalism. Toward this end the

remainder of this chapter is divided into three sections. The first section elaborates the feminist critique of Locke. The second section expounds those principles in Locke's political philosophy most valuable to feminist aspirations. The third section details a specific response to the feminist challenges.

The Feminist Critique of Locke

Feminist critics of Locke perceive a conflict between his promises of political liberty and equality and women's individual and social circumstances. Two broad strains of anti-liberal feminist criticism of Locke exist: a communitarian feminist critique and a radical/marxist feminist critique.[8] The former stresses women's particular biological and familial situations and concludes that the person Locke frees is biologically and socially male. The latter concentrates on women's unique familial and economic circumstances and concludes that the structure of society and politics which Locke defends leads inevitably to women's domination by men. Both the communitarian feminist and radical/marxist feminist analyses conclude that Locke's liberalism oppresses rather

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[8]Mary Dietz (1987) identifies two feminist challenges to the liberal notion of citizenship which she labels maternalist feminism and marxist feminism. The two critiques I discuss here are substantially the same. I've changed the names for two reasons. The former label, "maternalist feminism" neglects, I think, the debt of these feminists to more traditional communitarian thought. The latter, "marxist feminism" collapses, too readily, feminist thought on patriarchy with marxist thought on class.

than liberates women. Both strains of anti-liberal feminists agree that Locke's attack on patriarchy fails to undermine men's patriarchal rule over women.

The communitarian feminist reading of Locke argues that Locke's philosophy revolves around an exclusively male individual, who concerns himself with self-preservation, maximizing rights and accumulating wealth. He is the center of his world; his own needs drive his actions. According to Mary Dietz (1987, 2), liberal individuals, including Locke's individuals, "are atomistic, rational agents whose existence and interests are ontologically prior to society." Individuals tend "naturally toward egoism" (Jaggar 1983, 31).

The communitarian feminist interpretation of the character of Locke's individual derives from an older reading of Locke, his notion of human nature and its relationship to politics. Leo Strauss' Natural Right and History (1953) claimed, among other things, to discover the moral foundation grounding Locke's politics and Locke's individual. Contrary to the dominant interpretation, Strauss asserted that Locke's writings on the state of nature, natural law, and the moral, religious individual were actually a prudent subterfuge obscuring the primacy of the state of war, self-interested natural right and individual hedonism. Locke, in this Straussian interpretation, makes the selfish Hobbesian individual palatable; Locke rejects the traditional and Christian explanation of humanity partaking in an ordered

universe guided by independent, discernable moral codes (natural law) and instead places the individual and his limitless search for joy at the center of his political system. Strauss (1953, 248) claims that,

> through the shift in emphasis from natural duties or obligations to natural rights, the individual, the ego, had become the center and origin of the moral world, since man--as distinguished from man's end--had become the center or origin.

This hedonism, a "peculiar" hedonism associated with the accumulation of wealth rather than the simple immediate enjoyment of pleasure, explains both the character of the Lockean individual and the nature of politics. The intent of Locke's politics, as seen by Strauss, is to guard the individual's hedonist pursuits and protect "the joyless quest for joy" (1953, 251). Strauss' interpretation of Locke's politics empties it of any virtue higher than self-interest, of any compassion or morality not immediately founded on the individuals own egoistic desires.

Communitarian feminists do not greatly dispute the accuracy of this description of men; rather, they challenge its applicability to women. Communitarian feminists assert that women's experience of themselves and the world differs significantly from male--and "liberal"--individuals. Liberalism tries to fit women into a mold which they cannot and should not accommodate. Some communitarian feminists trace a difference in men's and women's moral agendas--that is, their empathic capability--to their different reproductive

capacities interacting within social contexts. Man's alienation from the product of his body at conception actualizes itself in his greater sense of separateness, in abstract moral reasoning, and in his historical and institutional attempts to mediate his alienation from the means of reproduction (O'Brien 1981). Women, in contrast, immediately and profoundly experience themselves as connected, both in their reproductive experience and their historical roles as nurturers. Women, who traditionally have centered their lives around the activities of the family, realize themselves as members of a group, members bound by the needs and desires of others as well as the limits of that unique familial context. Women cannot and should not become liberal individuals. These feminists

> eschew the liberal notion of citizen as an individual holder of rights.... Such a notion is at best morally empty and at worst morally subversive since it rests on a distinctly masculine conception of the person as an independent, self-interested, economic being. (Dietz 1987, 10)

Women are more likely to think, to act, to reason in terms of duty rather than right.[9]

Jean Bethke Elshtain's (1981, 118) analysis of liberalism centers on this sexually differentiated understanding of self.

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[9]Carol Gilligan (1982, 100) documents male and female moral development in In A Different Voice. Gilligan: "The moral imperative that emerges repeatedly in interviews with women is an injunction to care, a responsibility to discern and alleviate 'the real and recognizable trouble' of this world. For men, the moral imperative appears rather as an injunction to respect the rights to life and self-fulfillment."

> The presumption that human beings are rational, metaphysically free, prudential calculators of marginal utility...is used as a contrast model for the qualities and activities in a private world from which the public sphere is bifurcated theoretically.

According to Elshtain, the emphasis on rights and self-interest in liberal politics eliminates the distinctly feminine voice from liberal political discourse. Women's moral sense of connectedness and compassion is relegated to extra-political institutions such as family. This works to the detriment of both women and liberalism by secluding women's compassionate natures in the private family and robbing politics of the compassion women can bring to political endeavors. The male perspective further fails politics, as government's purpose is to guide compassionate co-existence not hedonistic anarchy.

In this way, communitarian feminists challenge not only liberal individualism but also liberal rights, liberal obligation and liberal rationality (Jaggar 1983; Hirschmann 1989; Elshtain 1981). For women, rights are not primary, obligations are not conventional and rationality is not completely objective and abstract. Women's superior empathic abilities distinguish them from men--and Locke's individual. In addition, in separating family from politics, Locke isolates women's compassionate, familial nature from the hard cold world of politics. For Locke, politics protects property which in turn protects self-interest. Family, however, nurtures. Within the family another's interest can override

one's own. The intimate ties within a family allow its members to forcefully and cogently appreciate and consider the interests of other members. In contrast to politics, duty precedes right in family. Elshtain (1981, 126) decries Locke's politics as oblivious to the "silenced" private sphere of the family and, historically, women's voices. In separating politics from family, liberalism, and Locke in particular, diminishes politics to self-interest and relegates women's voices to the private, non-political realm.

Saxonhouse (1985, 14) offers a different, communitarian analysis:

> Locke, with his theory of property--his contention that the acquisition of property could lead to the increased wealth and happiness of the entire human --gave justification for abandoning public life and turning to the private search for wealth.

Saxonhouse criticizes liberalism and Locke from the standpoint of antiquity. Politics for the Ancients entailed the pursuit of virtue, personal and social justice, whereas the household simply provided an economic, private basis for this public pursuit. In reducing politics to the protection of property Locke creates two competing realms of self-interest. Whereas for Elshtain Locke's politics silences compassion, for Saxonhouse Locke's politics silences virtue in its pursuit of secure life and goods. This silence is the antithesis of the very foundation of politics as first espoused in ancient political thought.

The communitarian feminist disagreement with Locke focuses on the perceived dichotomy in his thought between private and public, family and politics. In depoliticizing the family Locke allows room for only the male voice in politics, devaluing the significant contribution of the female character and perspective. The radical/marxist feminist critique similarly emphasizes Locke's understanding of private and public, detailing how women's actual marital, familial and economic (i.e., private) positions militates against promises of political emancipation for women. Radical/marxist feminists point to an incongruence in Locke's thought between formal political rights and the substantive inequalities women experience in a variety of societal relationships.[10] Whereas both the communitarian feminist and radical/marxist feminist reading of Locke revolve around his separation of family and politics, the latter argue that in depoliticizing the family Locke both misinterprets reality and hinders women's emancipatory struggles. These feminists maintain that the elimination of male control over female demands an understanding of the political character of women's private, familial situations. Accordingly Locke's liberal political philosophy obscures,

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[10]In terms of liberalism in general, Catherine MacKinnon (1987, 16) states "Hear this: the abstract equality of liberalism permits most women little more than does the substantive inequality of conservatism."

indeed disallows such an understanding.[11]

The radical/marxist feminist critique of Locke incorporates and extends the more general marxian critique of liberalism. Whereas Marx revealed the intricate relationship between the economy and politics, pointing to the patterns of coercion operating in the economy, radical feminists unmask the patterns of coercion present in the family which are reflected in the economy and politics (Nicholson 1986). More directly, radical/marxist feminists extend the marxist interpretation of Locke offered by C. B. Macpherson (1962, 195, 261) which exposes Locke as an apologist for the nascent English capitalist class. According to Macpherson, Locke postulates the "full individuality for some...by consuming the individuality of others." That is, Locke sacrifices the emergent working class to economic enslavement and inequality in order to defend the right of the capitalist class to a

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[11]Carole Pateman (1988, 3) best represents this feminist analysis of Locke when she distinguishes paternal patriarchy--where older males, fathers, rule younger males and all women--from fraternal patriarchy--where all men rule all women. According to Pateman, Locke frees adult males from their fathers, thus undermining paternal patriarchy. Yet he incorporates "male sex right" (male conjugal rights or powers) and substantive inequality by protecting patriarchal familial arrangements, instituting fraternal patriarchy. Patriarchal families allow men to claim individual rights to freedom and equality while maintaining male rule over female, smashing feminine aspirations to the same liberty and equality. Locke fundamentally transforms political patriarchy but Locke's thought remains patriarchal. One man no longer rules all other men and women, now all men rule all women. "Patriarchy ceased to be paternal long ago.... The original contract takes place after the political defeat of the father and creates modern fraternal patriarchy" (Pateman's emphasis).

virtually limitless pursuit of wealth. In this view, "Locke's whole theory of limited and conditional government was essentially a defense of property." The distinction between a private economy and public politics served both the demands of the emerging capitalist class for the appearance of political equality and supplied the required substantive inequality necessary for the continuation of their pursuit of wealth within a capitalist market. In this way, private and public in Locke establishes both theoretical equality and actual inequality.

Radical/marxist feminists apply this reading of Locke's distinction between private and public spheres to women's actual marital, familial, economic and political situations. They outline the inequalities present in all these spheres of activities and conclude that these actual inequalities obviate any formal equalities Locke may promise. Locke's failure to recognize the patterns of coercion in marriage, family and the economy obliterates any hope for equal rights for women within his political system. In fact, following Macpherson, these feminists conclude that private and public in Locke merely serves as a tool for the continuation of patriarchy. Formal equality for women both masks and legitimates the actual inequality in marriage, family and the economy.

According to the radical/marxist feminist approach, Locke's particular version of the marriage contract is patriarchal, demanding the subordination of women. Despite

Locke's assertion that each person has "Property in his own Person" and that the "Labour of his Body and the Work of his Hands...are properly his" (II, 27), Locke overlooks reproductive labor. Mary O'Brien (1989, 13) notes, "We do not yet ask what, if all labor creates value, is the value produced by reproductive labor."[12] Moreover, a wife's labor in a marriage produces community property (or offspring) which the husband controls as the "abler and the stronger" (II, 82). This communality of property in the family, and the husband's ultimate control over property produced through his wife's labor, conflicts with the woman's right to the value of the property produced by her own labor (Nicholson 1986, 156). Women not only bear and raise children, but also traditionally reproduce (i.e., maintain) the entire household, including the husband. The husband's control over community marital property ignores women's reproductive labor.

More specifically, although women bear the brunt of the labor involved in both the reproductive processes and nurturing, Locke delegates ultimate control of the product of that labor, the children, to the husband. Furthermore, Locke's claim that marriage provides for a "Right in one anothers' Bodies" in effect translates into male control over the female body given the inequities of the marriage contract and the cultural reality, where women have historically not owned

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[12]Mary O'Brien's thought bridges what I have called the communitarian feminist critique of Locke and the radical feminist critique.

their bodies but have been subject to both the control of their fathers and their husbands. In this way, the marriage contract legitimizes "masculine sex-right" (Pateman 1988, 168).

Radical/marxist feminists conclude that for Locke the institution of monogamous marriage functions primarily as an insurance of legitimate heirs for the biologically alienated father. Lorenne Clark (1978, 38) asks, in reference to Locke,

> If Adam does not own Eve, how can he be sure who his descendants are, and hence, on whom his apples ought properly to devolve? And if Eve owns her own apples, why should she obey Adam?

Along similar lines, O'Brien (1981, 159) concludes that Locke's liberalism mediates male uncertainty about his biological offspring by maintaining patriarchal families.

> The final solution of the problem of patriarchy is elaborated by John Locke in his first "Treatise of Government," while the legitimacy of property as a self-generating "principle of continuity" is celebrated in his second.

That is, Locke's celebration of private property demands a system--patriarchal marriage--whereby the father can, with certainty, identify his rightful (biological) heir. Locke captures women in patriarchal marriage contracts in order to ensure the continuation and transfer of property to legitimate heirs.

Although Locke contends that the terms of the marriage contract are negotiable for both men and women (each partner may protect the property with which he or she enters the contract), feminists point out that for Locke women <u>must</u>

contract marriage. According to Locke, women's sequential reproductive potential (where the woman bears a second child before the first matures) and the infant's extensive need for care provides a "Foundation in Nature," a necessity requiring that the woman contract marriage.[13] Thus, women's existing economic and social disadvantages, exacerbated by the necessity to contract, significantly erode the opportunity for women to conclude non-patriarchal marriages. Although women may have some latitude in negotiating the terms of the contract, this formal latitude masks the fact that nature dictates the need to contract and history dictates the husband as the head of that contract.[14] Diana Coole (1988, 86) summarizes the dilemma liberalism poses for women:

> ...there is no reason why they should not strive for a favorable conjugal contract if, as in the case of queens, they are able. Here is the novel and revolutionary core of liberalism: every individual is at liberty to compete for autonomy and success through the exertion of will. Yet it is unlikely that many women will succeed because their natural and customary disadvantages remain. Thus emerges the hiatus which prevents the doctrine from fulfilling its radical, universalist promises.

In a similar vein, Linda Nicholson decries Locke's "dehistoricization" of the family. Locke's version of the nuclear, patriarchal family is historically contingent,

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[13]On this basis Lorenne Clark (1979, 20) notes that Locke never mentions or discusses single women.

[14]Socialist Anatole France eloquently observes, "The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal to eat."

according to Nicholson, and not founded in nature as Locke argues. The "Foundation in Nature" to which Locke appeals in order to justify his own version of the nuclear family is actually historically and culturally specific. History reveals a variety of familial arrangements. History, not nature, constructs Locke's family. Patriarchy, male domination, is not based in nature as Locke describes, but is rather the specific byproduct of a particular historical and cultural process.

In addition to demonstrating the patriarchal aspects of Locke's notion of marriage and family, radical/marxist feminists point to a number of economic issues which are prejudicial to women. Besides criticizing the husband's control over community property, feminists turn to Locke's teaching on parental honor and inheritance. These feminists note that despite Locke's contention that children owe both parents honor, the "Power Men generally have to bestow their Estates on those, who please them best" which "is no small Tye on the Obedience of Children" (II, 72-73) belongs to the Father. These feminists echo Leo Strauss in asking: What is honor without obedience? What power do women have unless both parents control inheritance? According to Diana Coole (1988, 92) this allows the

> father considerable political leverage thanks to the terms of the marriage contract which generally make him sole executor of the family property. (See also Clark 1979)

Radical/marxist feminists offer an even more stinging critique of Locke's thought as applied to women's actual economic position.[15] In this view, Locke's rationality is inextricably tied to property; ownership expresses human rationality and individuality. Locke's optimism about the abundance of land and raw materials leads him to conclude that the rational and industrious can and will acquire private property. Furthermore, to the

> degree that the right to private property excludes the working classes and women, they are excluded from the realm of free and rational activity. (Eisenstein 1981, 44; see also, Jaggar 1983; Coole 1988)

"He does not understand that it is the nature of private property to exclude the laboring masses" and women (Eisenstein 1981, 46). Locke thereby excludes women and laborers from legitimate activity in the political realm. Jaggar (1983, 32) quotes Locke:

> opportunities of knowledge and inquiry are commonly as narrow as their fortune and their understanding are but little instructed, when all their whole time and pain is laid out to still the croaking of their own bellies, or the cries of their children....

The distractions of the cries from their children and the husband's control of the wife's property indicate women's inferior rationality for Locke.

Picking up one nuance of this radical/marxist feminist critique and applying it to women's unique political

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[15]See Macpherson (1962) for the origins of the argument.

situation, Carole Pateman (1979, 74-76) analyzes the role of tacit and express consent as it applies to women. When one expressly consents to government--by, for example, inheriting property in that system--one acquires a "higher obligation" (e.g., one may not emigrate) than that imposed on those who tacitly consent (see II, 121; see also, Coole 1988; Nicholson 1986). Women, however, have previously surrendered their estates in the marriage contract and so "at best their interest" in the social contract is "indirect and mediated by the husband" (Coole 1988, 94). Thus, women are in but not of the social contract (Nicholson 1986, 157). The standard of consent for women and their indirect interest in its political protection imposes both differential motives and obligations on women. More specifically, in so far as the state protects their life, women benefit; as to protecting their estate, women possess no interest in consenting. Coole (1988, 94) explains that "women will therefore receive limited benefits from the state, although these will be sufficient to oblige them to obedience."

On the basis of this examination of Locke's notion of family, economy and politics, radical/marxist feminists oppose Locke's separation of family from politics, of private from public. Women's subordinate position in the family and the economy profoundly affects their possibilities for autonomy and equality. Even if Locke's liberalism does grant women formal, abstract freedoms in the political realm, in

separating family from politics, Locke leaves woman enslaved in family, society and the economy. In "reifying" (Nicholson 1986, 137) the distinction between family and politics, Locke "mystifies" women's subordination (Eisenstein 1981, 49). Locke's separation of public from private offers the vision of freedom and equality with one hand while pulling it back with the other. Radical/marxist feminists conclude that if politics relies on bargaining and contractual agreement then equality is only possible if all negotiators have equal access to valuable goods with which to negotiate. By nature of familial obligations, historical expectations and economic disadvantages, women are not properly equipped to compete in the liberal public sector.

Thus both the communitarian and radical/marxist feminist critiques revolve around Locke's attempt to depoliticize the family. The separation of private and public life renders Locke unacceptably and necessarily patriarchal to feminist critics. An elaboration of the Lockean principles of liberty and equality, as they operate in the private and public spheres, however, demonstrates that Locke's understanding of the distinction between private and public is essential to attaining the feminist goals of liberty and equality.

Locke's Liberal Response

I argue that these anti-liberal feminists not only misinterpret Locke's distinction between private and public as

dichotomous[16] and "reified"[17] but also that they endanger the feminist project (women's emancipation) in abandoning it. The feminist claim that the "personal is political" may collapse human relationships into a single dimension. Patriarchy touches all human relationships, but not all human relationships are defined by patriarchy. Some feminists resurrect exactly that notion of politics which Locke finds most repugnant and dangerous in his protagonist, Sir Robert Filmer: the failure to recognize the difference between private and public pursuits (Elshtain 1981, 212-214). Locke distinguishes private from public concerns as a protection against tyranny.

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[16]Pateman (1987, 106, 119) describes the liberal distinction between private and public as a dichotomy and argues that "Locke's theory...shows how the private and public spheres are grounded in opposing principles of association which are exemplified in the conflicting status of women and men; natural subordination stands opposed to free individualism." Eisenstein (1981, 16) also identifies this dichotomy. In discussing the woman as mother she argues that "derived from this are the more subtle forms of patriarchal organization: ...the division between public and private life, and the divorce of political and family life. The separation of male from female constructs a dichotomous world view that limits insight into the structure of patriarchal organization itself" (my emphasis).

[17]Feminists use the term "reified" to describe what they perceive as the liberal abstraction of public from private life, an abstraction founded on an inappropriate understanding of reality. Pateman (1989, 91-92) states that in Locke, "a reified conception of the political is built upon what I shall call the fiction of citizenship." She continues "Liberal-democratic theory today...continues to present the political as something abstracted from, as autonomous or separate from, the social relationships of everyday life." Nicholson (1986, 2, 4, 137) also describes the Lockean distinction between private and public as "reified" and argues that modern feminism, in contrast, recognizes the "complex interconnections" between the family and other spheres of society.

Tyrants, according to Locke, extend their "Power beyond, what of Right belonged to the lawful Princes, or Governours of the Commonwealth" (II, 197).[18] In protesting Locke's separation of family from politics some feminists threaten individual freedom and choice. These feminists fail to balance the demands of liberty and equality in terms of the variety of specific social contexts.

Indeed many feminists do assert the need to distinguish private from public.[19] The crucial problem becomes one of identifying a model which articulates the differences between private and public while providing an avenue for the elimination of patriarchy. Properly understood, Locke provides the beginning of such a model. An examination of the dynamics at work in the variety of spheres Locke identifies reveals the radical potential founding his private-public paradigm.

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[18]Walzer (1983, 19) explains the relationship between private and public spheres and the protection against tyranny more explicitly. "The regime of complex equality is the opposite of tyranny. It establishes a set of relationships such that domination is impossible. In formal terms, complex equality means that no citizen's standing in one sphere...can be undercut by his standing in some other sphere."

[19]For example, O'Brien (1989, 79) distinguishes between "intimate" space and "public" space. Elshtain (1981) also criticizes radical feminists for forgetting about this important distinction. Pateman (1987, 119, 122) summarizes that the feminist critique of the liberal distinction between private and public does not "necessarily suggest that no distinction can or should be drawn between the personal and political aspects of social life." Rather "Feminism looks toward a differentiated social order within which the various dimensions are distinct but not separate or opposed." For provocative explorations of a feminist distinction between private and public see Young (1990); Hirschmann (1992).

Locke distinguishes a variety of social spheres in terms of both their foundation and their ends (II, 71). Families, for example, originate in "Inclinations of Tenderness and Concern" (II, 63) of parents for their children. The marital relationship also expresses this natural inclination to intimacy (Ashcraft 1987, 109-112). Marriage brings with it:

> Mutual Support and Assistance, and a Communion of Interests too, as necessary not only to unite their Care, and Affection, but also necessary to their common Off-spring. (II, 78)

The end of marriage and family is the duty of parents "to take care of their Off-spring, during the imperfect state of Childhood" (II, 58). Politics begins with the person's desire to be free of arbitrary and non-consensual political authority (i.e., the avoidance of a state of war) (II, 21) and has as its goal the preservation of property (II, 3). Feminists misread Locke when they describe his separation of private (family) and public (politics) as dichotomous and reified. Rather Locke explores the dynamics at work in a number of different spheres of human relationships and attempts to balance the demands of both individual liberty and equality in each sphere. Locke's reciprocal principles of liberty and equality both inform his treatment of various spheres (familial, religious, economic, and political) as well as determine the extent that one sphere can actively intervene another.

For Locke, adults are rational, free and equal. Upon reaching the age of reason, persons are assumed to have the

consciousness of self and consequences which allows reasonable action (Ashcraft 1987, 47-48, 168).

> Thus we are born Free, as we are born Rational; not that we have actually the Exercise of either: Age that brings one, brings with it the other too. (II, 61)

Individual freedom consists not only in the ability of individuals to choose their actions in accordance with their preferences but also in their capacities to organize their desires rationally, so as not to always succumb to immediate, ephemeral passions. This rationality allows individuals to discern an ordered reality which reveals certain laws of justice to humanity (natural law). Liberty allows reasonable individuals to discern this order and respond appropriately (Polin 1969, 3-6). Natural law constrains both the state of nature and civil government. As Locke explains,

> The State of Nature has a Law of Nature to govern it, which obliges every one: And Reason, which is that Law, teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty or Possessions. (II, 6)

In moving from the pre-political state of nature to civil government, individuals consent to a common judge to interpret and enforce natural law through civil law. Thus, natural law operates within civil arrangements as well as the state of nature. For this reason, the individual cannot sell him or herself into slavery in or out of the social contract. Natural law forbids the arbitrary destruction of one's own or another's life (Grant 1987, 67-71).

Liberty is not license. Laws of nature and of government both circumscribe and enlarge human liberty by harmonizing individual freedom with that of other free individuals. Liberty assumes equality. Individuals are equal before natural law; nature neither assigns rulers nor subjects (Pangle 1988, 234). Among adults:

> Power and Jurisdiction is reciprocal, no one having more than another: there being nothing more evident, than that Creatures of the same species and rank promiscuously born to all the same advantages of Nature, and use of the same faculties, should also be equal one amongst another without Subordination or Subjection. (II, 4)[20]

Nature lends equal authority to each individual, although individuals vary in terms of strength, beauty or intelligence.

Locke illustrates these principles of freedom and equality at work in a variety of human relationships, specifically in his thoughts on family, politics and the relationship between them. Locke explicitly and systematically distinguishes political from familial relationships. He does so in response to Sir Robert Filmer, who confounds the two. Filmer's Patriarcha, the leading exposition and defense of patriarchy in Locke's time, grounded political authority in paternal right which, according to Filmer, reflected divine will. That is, Adam's dominion over Eve, their children and the world has been passed, father to son, to present day

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[20]Locke makes this same point many times. "The Equality, which all Men are in, in respect of Jurisdiction or Dominion one over another,...being the equal Right that every Man hath, to his Natural Freedom, without being subjected to the Will or Authority of any other Man" (II, 54).

rulers. Indeed, occasionally God intervenes to ensure his will but the justification of political power remains the same: Adam's fatherhood passed to his heirs legitimizes political authority. For Filmer, politics is not like family; politics is family (Nicholson 1986, 141). The king exerts both paternal and political power over his subjects, because the king is literally both patriarch of this extended political family and head of the political institutions.

In response, Locke's First Treatise directs itself to demonstrating the differences between family and politics, between natural and conventional authority. Locke separates familial from political ends in an attempt to protect individual liberty, to free adults from patriarchal political rule. Locke's distinction between family and politics safeguards both adults and children. Children benefit because politics can never adequately replace a loving parent. Adults benefit because politics recognizes their status as mature, rational beings.

According to Locke, the family's purpose is procreation and the education of children. Sexual and emotional affinity and the sharing of common goals guide its movement.

> God hath made it their business to employ this Care of their Offspring, and hath placed in them suitable Inclinations of Tenderness and Concern to temper this power, to apply it as his Wisdom designed it, to the Children's good, as long as they should need be under it. (II, 63)

Parenting requires tenderness and a personal understanding of each unique child. Locke's Some Thoughts Concerning Education

(STCE) demonstrates the need for flexible, loving parents. The ill-tempered child's discipline and upbringing should differ from that of a timid child. Each child enters a family with particular dispositions. A parent can appropriately and lovingly gear a child's education to his or her particular strengths and weaknesses (Yolton 1989, 14-15).

> He, therefore, that is about Children, should well study their Nature and Aptitudes, and see, by often trials, what turn they easily take, and what becomes them, observe what their Native Stock is, how it may be improved.... He should consider, what they want; whether they be capable of having it wrought into them...and whether it be worth while to endeavor it. (STCE, 122)

Locke understands the implicit dimensions underlying family life.

In contrast, protection of property directs political action; politics operates in terms of individual rights, each person's interest in securing body, liberty and estate from injury.

> Political Power then I take to be a Right of making Laws...for the Regulating and Preserving of Property, and of employing the force of the Community, in the Execution of such Laws.... (II, 3)

Locke's distinction between politics and family is founded in the difference between adults and children. Adults are free; children require guidance until they reach an age of reason where they are presumed to perceive natural law for themselves. "And thus we see how natural Freedom and Subjection to Parents may consist together, and are both founded on the same principle" (II, 61). Adulthood brings with it both

reason and freedom. Feminists who misinterpret this distinction as resting ultimately on differences between man and woman not only misread Locke but also fail to grasp the liberating potential in Locke. Locke distinguishes adults from children, politics from family, so that adults will be treated as adults, not children.[21] Women can utilize Locke's distinction between family and politics to safeguard both adults and children. Locke's private-public distinction allows women to claim their adult status in politics and family without detracting from the unique parental relationship. Children remain under the authority of their parents. In principle, wives need not, should not, remain under the authority of their husbands.

Locke's distinction between family and politics is also founded in the difference between intimacy and citizenship. The former relies on personal, emotional ties; the latter relies on mutual respect for each person as a rational, free and equal individual. Actually two types of emotional

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[21] II, 2, clearly distinguishes parental from political authority. II, 54-55, identifies "that equal Right every Man hath, to his Natural Freedom, without being subjected to the Will or Authority of any other Man." Children differ from adults in that they have not yet reached a state of full equality. "Children, I confess are not born in this full state of Equality, though they are born to it. Their Parents have a sort of Rule and Jurisdiction over them when they come into the World, and for sometime after, but 'tis but a temporary one. The Bonds of this Subjection are like the Swadling Cloths they are wrapt up in, and supported by, in the weakness of their Infancy. Age and Reason as they grow up, loosen them till at length they drop quite off, and leave a Man at his free Disposal."

relationships compose modern nuclear families: parent/child and wife/husband. Locke's distinction between family and politics captures both features of modern families: the mutual, intimate, sexual support present in the spousal relationship and the nurturing, loving support present in the parental relationship. Neither spousal nor parental relationships can survive translation to the political sphere. One cannot love a stranger as one loves a spouse or a child.[22]

Thus, anti-liberal feminists misunderstand family when they reduce it to its public dimensions, to the political. Not only does this fail to account for the dynamics at work in the different relationships, but it also forgets that individual liberty requires a refuge from politics which is lost if one dissolves the distinction between family and politics. Family provides a shelter from the over-arching, arbitrary intrusions possible when politics steps into family. In addition, although families provide love, it is politics which provides the sufficient scope necessary for the full development of the personality. Persons need both families and politics as distinct relationships to actualize their potential. Neither can be reduced to the other.

Locke's understanding of adult freedom and equality profoundly influences his understanding of marriage. While feminists correctly point out some disturbingly patriarchal

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[22]See Ashcraft (1987, 109-112) for a discussion of the role of intimacy in Locke's family.

features of Locke's thought, some also neglect its deeper potential for a radical transformation of patriarchal marriage. For example, although Locke does grant control of community property to the husband as the "abler and stronger," he does so only after having already undermined the notion that strength gives authority (Schochet 1975, 249-250). Locke himself denies "that Men live together by no other Rules but that of Beasts" (II, 1). Furthermore, not only is Locke tentative in granting marital authority to the husband--it "should be placed somewhere" (II, 82)--he immediately opens the possibility of marriage without male domination and female submission. "But the ends of matrimony requiring no such Power in the Husband," that power,

> might be varied and regulated by that Contract, which unites Man and Wife in that Society, as far as may consist with Procreation and the bringing up of Children till they could shift for themselves; nothing being necessary to any Society, that is not necessary to the ends for which it is already made. (II, 83)

Indeed, here Locke merely reiterates a point he made in his First Treatise:

> There is here no more Law to oblige a Woman to such a Subjection, if the Circumstances either of her Condition or Contract with her Husband should exempt her from it, then there is, that she should bring forth her children in Sorrow and Pain. (I, 47)

Melissa Butler (1978) has shown that Locke often consciously departs from traditional views about women in the interest of individualism. Locke understood that his individualism required a consideration of women as well as men as

individuals. Similarly, Mary Lyndon Shanley's (1979, 91) study of seventeenth century marriage contract theory leads her to conclude that Locke revolutionized marriage, not in basing it in a voluntary contract, but in making the terms of the contract negotiable:

> Locke's notion that contract might regulate property rights and maintenance obligations in marriage was an astonishing notion, and not for the seventeenth century alone.

For Locke, a woman could control not only who her partner was to be, but also the terms of her relationship to that chosen partner. Despite patriarchal aspects of Locke's thought, the basis of a radical transformation in the institution of marriage lay in his work. Locke takes his own principles of individual liberty and equality seriously and in doing so revolutionizes marriage and family. Although Locke betrays his own principles in some specific instances, this does not invalidate the principles themselves.

This radical Locke also surfaces in an examination of his thought on family, as well as marriage. Locke denies the husband's ultimate control over the children, as God, not the children's father, is the "Author and Giver of Life" (I, 52) and "the Mother cannot be denied an equal share in begetting the Child, and so the Absolute Authority of the Father will not arise from hence" (I, 55).[23] Mere paternity does not lend authority, at least no more than the mother herself shares by

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[23]See Nicholson's (1986, 142) discussion on this point; also Ashcraft (1987, 72).

virtue of her maternity. In addition, although Locke tenuously grants control of joint property and children to the husband, he explicitly excludes property belonging to the wife before the union (II, 82). This is significant because every woman enters the contract with a fundamental property right in her own body, and therefore retains control of that property.[24] This carries radical repercussions for the traditional institutions of marriage and family. On this basis, women can protect their bodies, and the product of their bodies from masculine domination. Neither nature nor God demands that the woman relinquish control of her body, or her labor, to her husband. Furthermore, the wife's and child's independent claim on familial property suggests that paternal authority over property is one of trust rather than absolute control.[25] A violation of political trust allows revolution. Conceiving of paternal authority as a trust not only indicates a move away from a patriarchal conception of the family but also implicitly recognizes the redress available in the case of a breach of that private trust-revolution. Locke not only undermines his own apparent support for an authoritarian patriarchal family structure, he also recognizes the historically and culturally fluctuating nature of this social unit.

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[24]Coole (1988, 88) overlooks the significance of this exclusion for all but a few lucky heiresses.

[25]Locke (II, 83) identifies the "Community of Goods, and the Power over them, mutual Assistance and Maintenance, and other things" as "belonging to Conjugal Society."

Although Locke describes an historically specific family, he leaves open the possibility of cultural and historical adaptations. As long as the family fulfills its purpose--educating young--Locke can accommodate it. Locke cites various circumstances where "the Children are all left to the Mother" and even where "one Woman hath more than one Husband at a time" (II, 65). For Locke, the marriage contract could include polyandry (Tarcov 1984, 209). Although Locke's familial illustrations reveal a bias toward a traditional nuclear family, the implications of his contractual thought do not lend to the closure feminists such as Linda Nicholson suggest. The application of Locke's principles are not limited by any one historical or cultural manifestation.

Locke's understanding of individuals as free and equal persons interacting in a variety of relationships informs his picture of marriage, family and politics and the possibilities inherent to those institutions. In addition, although politics and family are distinct spheres, Locke argues that the boundary between them is not impermeable. He paves an avenue through which politics can actively encourage the actualization of liberty and equality in the family. Politics can, on some bases, interfere in the family (as with the economy and religion, as indicated below). Family and politics are not separate, dichotomous and reified for Locke as some feminists claim. He not only discusses the reciprocal

relationships of family and politics but also, more implicitly, the extent of political intrusion in the family.

A comparison of marriage and political contracts yields evidence to suggest that politics can interfere with family (Butler 1978, 145). Consent grounds both types of contracts according to Locke. Just as Locke argues that the social contract can legitimately support a number of political institutional arrangements, monarchy, aristocracy and democracy (although Locke does have preferences), so the marriage contract can support a number of familial arrangements. But, according to Locke, in politics we cannot consent to an absolute monarchy;[26] this would deny the freedom and equality which justifies consent in the first place and which is a necessary feature of societies bringing together rational individuals. Similarly, although Locke does not expressly make this argument, authoritarian, patriarchal marital contracts would violate the inalienable rights to life, liberty and property of those contracting (in this case, the wife) and be illegitimate.[27] Politics, in its legitimate role as a caretaker of these inalienable rights, can and should

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[26]More exactly, absolute monarchy is in principle illegitimate. As Ashcraft (1987, 118-120, 155-157) points out, absolute monarchs exist and historically people have consented to them; but, in principle this consent, and those absolute monarchies, are illegitimate. People living under an absolute monarch remain, in fact, in a state of nature.

[27]Locke (II, 202) limits authority in various contexts. "For the exceeding the Bounds of Authority is no more a Right in a great, than a petty Officer; no more justified in a King, than a Constable."

step into the family to support these rights and to subvert illegitimate marriage contracts. Politics protects the life, liberty and property of women as well as men and can step into the family to do so. Locke's principles of freedom and equality can be used to attack patriarchal families as well as patriarchal politics and allows politics to conduct such an attack on patriarchy in the family. Just as politics can interfere in the economy in the interest of life, liberty and property, so it can interfere in the family "the end of Government being the preservation of all" (II, 159).[28]

Both the marriage contract and the political contract are bound by natural law.[29] These boundaries are most evident in the limits to the consent which forms each society. In neither case may one sell one's self into or consent to slavery (Lemos 1978). As noted earlier, consent to slavery violates the natural law to preserve one's own, and another's life (Grant 1987, 71). This indicates that mere efficiency is neither the standard of a good political or familial order. Locke denies the justice of an efficient, absolute monarchy

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[28]Later in the work I provide a detailed discussion of the relationship between the economy and politics, and specific examples of the ability of the latter to interfere in the former.

[29]Locke (II, 135) explains, "Thus the Law of Nature stands as an Eternal Rule to all Men, Legislators as well as others. The Rules that they make for other Mens Actions, must, as well as their own and other Mens Actions, be conformable to the Law of Nature, i.e., to the Will of God, of which that is a Declaration, and the fundamental Law of Nature being the preservation of Mankind, no Humane Sanction can be good, or valid against it."

(Grant 1987, 92) and, implicitly of the efficient absolute authority of the father. This demonstrates that both political and familial relationships appeal to a principle of justice which transcends each. In this way, Locke implicitly recognizes the steps civil government can take to discourage, even outlaw, authoritarian, patriarchal marriages. Liberal politics can actively attack patriarchal marriages which violate this principle of liberty, which violate natural law (the principle of justice in families). For example, feminists could use Locke's notion of liberty and consent to attack, and outlaw, all types of rape, including marital rape.[30] Regardless of the marital contract a woman's body remains her own. Penetrating that woman's body without her consent violates natural law. Politics legitimately steps in to protect that woman and punish that perpetrator. In sum, although Locke distinguishes politics from family, both appeal to natural law as the standard of a just familial, or political order.

The interactive relationship between family and politics becomes apparent when put in the context of natural law. The family's role is to educate children to assume roles as free and responsible adults. Appropriate familial education becomes almost a patriotic duty for Locke. In his introduction to Some Thoughts on Education, Locke declares:

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[30]For a discussion of the relationship between rape and patriarchy, of the patriarchal use of rape to keep women subordinate, see Brownmiller (1975).

> The well Educating of their Children is so much the Duty and Concern of Parents, and the Welfare and Prosperity of the Nation so much depends on it, that I would have everyone lay it seriously to Heart. (STCE, 80)

The family educates for liberty while liberal politics allows the exercise of that liberty (Tarcov 1984, 76). Specifically, Locke designs his education so as to subdue the child's desire for mastery over others and directs this desire to mastery over one's self and one's desires (Tarcov 1984, 89-90). Children must not be allowed to master their parents, their maids, their rewards or their environments; rather, they should be taught to master their desires through reason (STCE, 33-36). Locke also tells us that example is the best teacher; surely a patriarchal master of the household would undermine any attempt to subdue the desire in children to master others.

The political sphere provides an environment within which the marital union occurs and familial activities take place.

> For all the ends of Marriage being to be obtained under Politick Government, as well as in the state of Nature, the Civil Magistrate doth not abridge the Right, or Power of either naturally necessary to those ends, viz., Procreation and mutual Support and Assistance whilst they are together; but only decides any Controversie that may arise between Man and Wife.... (II, 83)

Just as family relations can influence politics, liberal politics can influence family and marital relationships. Politics can support and encourage non-patriarchal marriage contracts. Feminists who oversimplify Locke's distinction between private and public, describing it as reified, fail to account for the potential in Locke's description of private

and public for understanding, even shaping the influence each sphere has on the other.

Not only does Locke's description of the relationship between private and public allow politics to address patriarchy in the family but his defense of individual freedom and rationality encourages individual action in order to establish and protect liberty. Illegitimate rule allows, indeed demands, revolution. The principles of justice constraining family and politics, and Locke's explicit assertion that individuals can ascertain those principles of justice for themselves,[31] logically supports a right to revolution where the individual can demand justice in either the familial or political community. Oppressors do not give up power, the oppressed seize it.[32]

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[31]Locke (II, 6, 225) throughout the Second Treatise, asserts this individual capability to discern natural law: "The State of Nature has a Law of Nature to govern it...which...teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions." The people, the oppressed, serve as judge of the oppression: "If a long train of Abuses, Prevarications, and Artifices, all tending the same way, make the design visible to the People, and they cannot but feel, what they lie under, and see, whither they are going, it is not to be wonder'd, that they should then rouze themselves, and endeavor to put the rule into such hands, which may secure to them the ends for which Government was first erected."

[32]It should be noted that Locke (II, 168, 176, 225) is not inciting citizens to immediate or imprudent revolution. "And he that appeals to Heaven, must be sure he has Right on his side; and a Right too, that is worth the Trouble and the Cost of the Appeal, as he will answer at a Tribunal, that cannot be deceived, and will be sure to retribute to every one according to the Mischiefs he has created to his Fellow-Subjects." Only a "long train of Abuses, Prevarications, and Artifaces, all

> What is my Remedy against a Robber, that so broke into my House? Appeal to the Law for Justice. But perhaps Justice is denied, or I am crippled and cannot stir, robbed and have not the means to do it. If God has taken away all means of seeking remedy, there is nothing left but patience...then they may appeal...to Heaven, and repeat their Appeal till they have recovered the native Right.... (II, 176)

Mary O'Brien (1989) argues that the feminist revolution, unlike any revolution in the past, occurs in the private realm. Locke's liberal principles open the door to such a private revolution. As Shanley (1979, 70) says, "Women, like men, were free beings able to define their relationship to others by their own wills and consent." Locke's theory of revolution derives from Locke's conception of both men and women as free, rational beings.

A revolution in the private realm, in the family, is far from easy or certain, given the pervasiveness of patriarchy. Since those who benefit from patriarchy do not simply relinquish control, women must demand freedom and equality across the spectrum of familial, economic and political life. In addition, as we have seen, liberal politics encourages the enhancement of freedom and equality in the family. Freedom and equality in any realm reverberates into others. Locke provides for both an individual and political attack on patriarchal families.

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tending the same way" will incite a majority which is typically rather complacent. Locke is, however, emphatically defending a people's right to protect their own liberty when circumstances demand it.

Marriage, family and politics are only three spheres of human relationships which Locke explores in terms of liberty and equality. Throughout his writing Locke locates a number of different spheres of human activity which operate according to different principles, different centers of gravity. Locke's treatment of these other spheres echoes his treatment of the relationship between family and politics. Politics can interfere in religion, or in the economy, to protect each person's right to life, liberty and property.

In religion charity grounds action. Love, as in love thy neighbor, defines religious relationships. Religion concerns itself with the "Interest of Mens Souls" (Letter, 26) whereas politics concerns itself with property, body and estate. Locke, in rebuttal to those who confound these two spheres, distinguishes faith from coercion. Once again, the interests of liberty and equality demand that politics not preach and preachers not coerce. While exploring the different laws of conduct guiding religion and politics, however, he implicitly and explicitly recognizes the interactive nature of these spheres of action. In a Letter Concerning Toleration Locke:

> undertake[s] to represent how happy and how great would be the Fruit, both in Church and State, if the Pulpits everywhere founded with the Doctrine of Peace and Toleration. (Letter, 34)

Furthermore, Locke demonstrates the necessity for mitigating, and eliminating, the prejudicial impact of religion on other spheres:

> All...care is to be taken that the Sentence of Excommunication, and the Execution thereof, carry with it no rough usage, of Word or Action, whereby the ejected Person may any wise be damified in Body or Estate. (Letter, 30)

Politics protects property and religion cares for souls. Politics cannot interfere in religion for the sake of souls (i.e., faith) but it may for the sake of property. When religious rites threaten life, liberty or property, government legitimately intervenes.

> But those things that are prejudicial to the Commonweal of a People in their ordinary use, and are therefore forbidden by Laws, those things ought not to be permitted to Churches in their sacred Rites. Onely the Magistrate ought always be very careful that he do not misuse his Authority.... (Letter, 42)

On this basis, politics need not, should not, tolerate the sacrifice of infants, "promiscuous uncleanness, or practise of other such heinous Enormities" (Letter, 42), or the sacrifice of any calf other than the member's own.

In the economic sphere utility guides action. Property originates in each person's drive for self-preservation and has as its end the comfortable life of the laborer, and by extension, those who benefit through his/her labor. Rational individuals best serve their own interests as well as those of the community. Free individuals exercise their liberty through labor and the procurement of property (Polin 1969, 6). In this way, property manifests liberty, rather than sheer materialism (Myers 1991). For Locke, an individual's right to property encompasses actually two rights: 1) the right to

private property, to keep what one labors for or inherits, and 2) the right to acquire property in the first place (Lemos 1978, 140-141).[33] The former generates inequalities while manifesting liberty; the latter demands a modicum of equality in order to ensure liberal expression through property. This becomes most apparent when one reads Locke's use of the word "property" in its broadest sense: "property" connotes one's liberty as well as one's estate (Myers 1991, 327-329).

So, once again, Locke attempts to balance freedom and equality, this time by structuring the dialogue between politics and the economy. Class divisions can be neither so great that one class of people is permanently crippled in its attempts to acquire property,[34] nor so small that they inadequately reflect individual effort. In this way, politics protects property while setting the terms of economic relationships, establishing the limits of procurement, and enforcing taxation:

> ...in some parts of the World (where the Increase of People and Stock, with the Use of Money) had made Land scarce, and so of some Value, the several

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[33]Putting the individual's right to property within the context of each person's duty to preserve God's workmanship also supports this conclusion. In this interpretation, a right to property is based upon appropriate use, upon its promotion of human happiness. See Tully (1980); Ashcraft (1987).

[34]"Man can no more make use of another's necessity, to force him to become his Vassal, by withholding that Relief, God requires him to afford to the want of his Brother, than he that has more strength can seize upon a weaker, master him to his obedience, and with a Daggar to his throat offer him Death or Slavery" (I, 42; quoted in Tully 1980, 137).

> Communities settled the Bounds of their distinct Territories, and by Laws within themselves, regulated the Properties of the Private Men of their Society, and so, by Compact and Agreement settled the Property which Labour and Industry began. (II, 45)

Over and above this, because "all the Members of the Society are to be preserved" (II, 159),

> he that hath, and to spare, must remit something of his full Satisfaction, and give way to the pressing and preferable Title of those, who are in danger to perish without it. (II, 183)

One may be coerced, presumably through political means, to provide for the needy. Furthermore, Locke's injunction to leave "enough and as good" (II, 33) for others when procuring property, although considerably weakened with the introduction of money,[35] demands that neither disparity of wealth be so great, nor monopolies of goods be so extensive, as to bar the opportunities of others to an equal exercise of labor and enjoyment of goods. Locke protects each person's right to acquire, as well as own, property. Often, as has been demonstrated, these two subsidiary rights need to be balanced.[36]

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[35]The introduction of money provides that "he who appropriates land to himself by his labor, does not lessen but increase the common stock of mankind" (II, 37). With or without the presence of money, however, when procurement lessens the common stock of mankind, obstructs the rights of others to acquire property through labor, Locke would, in this interpretation, curtail appropriation.

[36]Furthermore, Locke (I, 86) limits the right to property. "And thus Man's Property in the Creatures, was founded upon the right he had, to make use of those things, that were necessary or useful to his Being."

Following this same line of argument, as politics can interfere in the economic realm it can intervene in the family for the sake of protecting each individual's right to property. In the case of the family, it may not, however, usurp the family's educational authority. It may not wholly equalize, or regulate the intimate marital relationship. It steps into these roles only to the extent that is necessary to ensure each person's right to protect and acquire property. Importantly, Locke understands property broadly as life, liberty and estate.

Communitarian and Radical/Marxist Feminists: A Reply

Understanding the underlying dimensions of liberty and equality at work in the interaction among the multitude of private and public spheres Locke identifies sheds light on the potential within his paradigm for addressing his communitarian and radical feminist critics. Putting Locke's individual within the context of these multiple spheres reveals an individual who is not the egoistical, self-preserving maximizer of rights and accumulator of goods that some communitarian feminists depict. A closer look at Locke reveals an emphasis on "person" as well as, and above, the individual. This person realizes himself or herself in a variety of social contexts. My religious obligation to my fellow person--love (charity)--which differs from my political obligation--protecting his property--differs again from my familial obligation. Even self-preservation, the motivation behind

politics, manifests God's Will ("Workmanship") rather than desire (although the two do not conflict in this instance). Self-preservation is an obligation before it is a right.

> Every one as he is bound to preserve himself, and not to quit his station willfully; so by the like reason when his own Preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind. (II, 6)

As Ashcraft (1987, 133) points out, there exists a connection in Locke's thought between natural law which obliges one and natural right to property--life and estate.

The communitarian feminists' stress on Locke's individualism neglects the constellation of relationships which surround each person, relationships which, each in varying degrees, reflect both man's and woman's connectedness. Communitarian feminists' stress on natural rights fails to put those rights within the context of natural law and various human relationships. On this same basis, communitarian feminists who take Locke to task for removing "compassion" or "virtue" from politics have misread Locke's own intention. Locke removed considerations of virtue--for Locke, religion--from politics in the hope of promoting both peace and virtue. As Locke argues in a Letter Concerning Toleration, faith cannot be induced by force, but encouraged through love. For Locke, virtue is self-generating (or at least more likely to surface) given the appropriate tolerant political environment.

> The care of Souls cannot belong to the Civil Magistrate, because his Power consists only in outward force; but true and saving Religion consists in the inward persuasion of the Mind. (Letter, 27)

The recognition of this distinction works to the "true interest of the Publick" (Letter, 21). Indeed, Locke believes that virtue in one sphere benefits another: religious individuals make good citizens; compassionate, reasonable familial education creates liberal citizens; removing direct and explicit concern for virtue from politics promotes virtuous politics.[37]

Locke illustrates what Nancy Rosenblum (1987, 55) might call a "divine egotism." Locke's identification of political interests with "Life, Liberty, Health and Indolency of Body; and the Possession of outward things, such as Money, Lands" (Letter, 26) serves not only to protect each individual from political tyranny but also to provide a space for "inwardness" (Rosenblum 1987, 55) or in Locke's words "inward sincerity." Removing virtue as a political concern allows virtue to surface in an atmosphere of individuality and plurality because virtue is not the product of force but of persuasion. Coercion promotes blind acceptance rather than the thoughtful, ingrained understanding of rational virtue. Locke remarks on those who:

> are resolved to stick to a Party, that Education or Interest has engaged them in; and there, like the

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[37]The communitarian feminist reading of Locke overlooks many persuasive, more recent interpretations of his philosophy. Refuting Strauss' vision of hedonistic nihilism in Locke, Grant (1987) argues that although humanity is not capable of absolute certainty, we can rationally and morally guide our conduct. In addition, Macedo (1990) points to the virtuous underpinnings grounding liberalism and Tarcov (1984) elaborates on the moral nature of Lockean education.

> common Soldiers of an Army, show their Courage and Warmth, as their Leaders direct, without ever examining, or so much as knowing the Cause they contend for. (Essay, IV, 18, 11)[38]

In regards to Christian virtue, "If the Gospel and the Apostles may be credited, no Man can be a Christian without Charity, and without that Faith which works, not by force, but by Love" (Letter, 23). The virtuous politics some communitarian feminists espouse confounds two dimensions of life, inappropriately using force to generate something it cannot create and imperiling necessary space for inward sincerity.

The radical/marxist feminist error in reading Locke also results from an oversimplification of Locke's distinction between private and public. As the preceding discussion of the spheres at work in Locke's thought indicates, Locke does depoliticize the family, but he does not isolate it. He demonstrates an understanding of both the adverse effect one sphere can have on another (e.g., note the adverse effect politics can have on religion) and the welcome influence one sphere can have on another (e.g., note the positive impact family can have on politics). Because Locke allows for a dialogue between spheres, he can accommodate the dialogue between substantive and formal rights without degrading either the family or politics. Politics can encourage free, equal families while respecting the unique nature of that familial community. In this interpretation, Locke's political

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[38]Quoted in Myers (1991, 400-401).

philosophy would allow for government subsidized day care as a necessary, although clearly not sufficient, prerequisite to female equality. Politics enforces each individual's right to protect and acquire property. This demands some interference in the economic and familial sphere. This also allows politics to outlaw marital rape. Politics can step into the family, but it does so carefully, ever mindful of the liberty expressed in that marital, familial contract.

A correct understanding of the underlying dimensions of liberty and equality at work in the dialogue between two particular spheres, economics and politics, contradicts the argument by some feminists that for Locke women were not considered rational by virtue of their unique historical relationship to property. Not only does circumstantial evidence indicate that Locke thought women to be rational, but understanding Locke's rationality in terms of the richness of human contexts and the principles of liberty and equality clearly reveals that Locke considered, in fact, assumed women to be rational beings.

In An Essay Concerning Human Understanding Locke refers to "rational parents" (Essay, IV, 4, 16) suggesting that both parents are rational, despite the mother's tending to her child's call. Furthermore, in discussing political conquest Locke refers to both the wife's title in property and the wife's labor in producing goods (thereby confirming women's rationality even by Macpherson's standard): The Conqueror

"cannot take the Goods of his Wife and Children; they too had a Title to the Goods he enjoy'd, and their shares in the Estate he possessed." In addition, "whether her own Labour or Compact gave her a Title to it, 'tis plain, Her Husband could not forfeit what was hers" (II, 183).

Over and above this circumstantial evidence, Ashcraft (1987) unveils a more radical interpretation of Locke which directly confronts both Macpherson's and, by extension, the radical/marxist feminist reading of Locke. Ashcraft argues against Macpherson's narrow equation of Locke's rationality with property on three bases: First, Locke refers to all men as free in the state of nature, without any reference to socio-economic conditions which underlie that freedom. Second, even if Locke did correlate property with reason, every man (and woman) has property in his (or her) own body and Macpherson (and some feminists) mistakenly equate property solely with estate. Finally, and most importantly, Locke's indication that reason is presumed with maturity, where one "might be supposed capable of knowing the Law, and so living within the Rules of it" (II, 60), demonstrates the more universal character of reason. Some Thoughts Concerning Education buttresses this meaning of Lockean rationality. Locke describes education as making the mind of the child "pliant to Reason" (STCE, 34) and providing habits so one may submit to his own Reason, when he is of an Age to make use of it" (STCE, 36). Not estate, but "reason and property in one's

person" (Ashcraft 1987, 175) is the criterion for legitimate political involvement and consent. Macpherson, and less directly, some feminists, are misled by reading passages out of context; in a political context reason is not socially, economically or sexually differentiated for Locke (Ashcraft 1987, 167-173). Not property (as understood as goods) but self-guidance, the ability to render legitimate contracts and the perception of natural law all indicate rationality for Locke.

Clearly, the principles of freedom and equality inform the relationships (marital, familial, economic, religious and political) of all individuals, men and women. Locke's liberal political philosophy begins to illustrate the transformation which all human relationships undergo when individuals are considered rational, free and equal. In this way, the misinterpretation of Locke's distinction between private and public domains as reified yields mistaken conclusions about the possibilities of emancipation for women within Locke's liberal system. The oversimplification, by some feminists, of Locke's understanding of private and public leads them to err in concluding that Locke's liberal individual is artificially divorced from social particularities, that Locke's liberal family is necessarily patriarchal, that women are not rational and that politics does not and cannot influence family. More specifically, because some feminists misread Locke's distinction between politics and family as one between male and

female and not between adult and child, they discount his paradigm.

Instead of rejecting Locke's distinction, feminists can use it as both a protection of (male and female) adult liberty and as a principle with which they can press for equality and liberty in different social contexts. Locke's liberal political philosophy allows women, like men, to be treated as rational adults in family and politics. Politics should treat neither men nor women as children. Feminists should be activating Locke's principles of personhood and anti-paternalism, of rationality, freedom and equality while criticizing specific instances of patriarchy in Locke's thought.

Locke supplies the beginning of a model, with all its rough edges, which captures the differences and overlap between private and public concerns. In doing this, Locke creates a paradigm which discourages tyranny and maximizes individual liberty. In establishing and protecting the family as private, Locke disarms political, tyrannical intrusions in that sphere. Locke's thought, in contrast to some feminist thought, provides a shelter for families from political tyranny. This paradigm also distinguishes essential differences between different spheres while providing a basis for understanding the overlap among spheres. The organizing principle in one sphere differs from another, but actions in each reverberate in others. Locke's liberalism begins to reconcile the demands of freedom and equality within a variety

of contexts. Although Locke never explicitly explores the impact of familial gender disadvantages as they influence political aspirations of freedom and autonomy, he plants the seeds for a deeper understanding of these influences, and even leaves open the possibility of tempering the impact among private and public positions. In so doing, he points to the possibility of enhancing freedom and autonomy in each sphere of activity. Liberalism needs to systematically and self-consciously work out the interactive relationship between spheres of human activities, to specifically address gender differences and formally incorporate those differences into its paradigm.[39] This does not undercut as much as continue the liberal, or Lockean, project.

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[39]Walzer (1983) details a provocative and persuasive attempt to do exactly this.

CHAPTER III

MILL AND FEMINISM

Feminist critics of liberalism turn with particular interest to the political philosophy of John Stuart Mill. Mill actively championed the rights of women in his writings and his political career. He consciously extended liberalism's fundamental principles of individualism, equality and liberty to women. On this basis, feminists ask whether Mill can consistently and systematically maintain a distinction between private and public spheres while providing for women's equality and liberty in both domestic and political circles. Feminists ask whether Mill's liberty is a real possibility for women as well as men.

While some feminist critics of Mill defend his basic principles,[1] others conclude that his distinction between public and private limits Mill's liberal paradigm, negating any substantive liberty or equality for women. Mill's promise of female autonomy remains an abstraction, divorced from women's actual familial, economic and social positions. The

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[1]See, for example, Rossi (1970); Shanley (1981); Spitz (1981); Tulloch (1989); Urbinati (1991).

elimination of women's "domestic slavery"[2] requires a rethinking of Mill's separation of private from public, of family activities from political intervention.

Mill (OL, 105) contends that the repeal of the "despotic power of husbands over wives" requires "nothing more...than that wives should have the same rights, and should receive the protection of law in the same manner, as all other persons."[3] From the anti-liberal feminist standpoint, this undermines any hope for the concrete realization of genuine female autonomy. Women's daily lives demand a reconceptualization of private and public which fully recognizes and incorporates the constraints of private lives on public opportunities. These feminists argue that in protecting a private arena of human activities, Mill's liberalism remains blind to private sources of power. They point out that women's private slavery obstructs women's public freedom; Mill's separation between private and public obscures and masks these private obstacles.

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[2]Mill himself uses this description of women's familial position in Sub., 150.

[3]Hereafter, references to Mill's On Liberty, The Subjection of Women and Chapters on Socialism will be to J. S. Mill, On Liberty and other writings, Stefan Collini, ed. (New York: Cambridge University Press, 1989) and noted as OL, page #; Sub., page #; Soc., page #. References to John Stuart Mill, Autobiography, Jack Stillinger, ed. (Boston: Houghton, Mifflin Company, 1989) are noted as Auto., page #. References to John Stuart Mill, Considerations on Representative Government, Currin Shields, ed. (New York: Bobbs-Merrill Company, Inc., 1958) are noted as Rep., page #. Finally, references to Mill's Utilitarianism are to Utilitarianism and Other Writings, Mary Warnock, ed. (New York: New American Library, 1962) and cited as Util., page #.

Equal "protection of law" and "the same rights" (OL, 105) lays a superficial veil of freedom, disguising and protecting actual historical slavery.

Feminist critics argue that in carving out a private arena free from political intervention, Mill, like other liberal thinkers, masks and protects private sources of power. These critics point to Mill's separation between private and public and to his perceived failure to develop a cogent framework relating formal and substantive equality. They deny any possibility for a resolution to this problem within Mill's liberal paradigm. Hughes (1979), for example, argues that Mill's distinction between public and private covers over the conflict between an abstract promise of public freedom and a concrete disparity in private property, a barrier to real economic success for women. Cameron (1980) identifies the conflict as one between the ideal of freedom and the customary sexual division of labor in the family. Eisenstein (1981) targets the tension between what she calls "individuality" and the "ideology of liberal individualism" in Mill's thought. Finally, Elshtain (1981) depicts the distinction between public and private in Mill as one between abstract reason and emotion. All these feminists agree, however, that "a conflict exists in Mill between the ideal and the reality" (Cameron 1980, 782). The illusion of freedom and equality evaporates when women's actual historical and customary situations are taken into account. Mill's commitment to a liberal conception

of a private sphere free from political intervention leads to the "ultimate renunciation of his egalitarian principle" (Hughes 1979, 540).

Feminists who discount Mill's liberalism misread his feminism and misinterpret his distinction between private and public life. In this chapter, I argue that this results from a failure to differentiate two levels of theoretical analyses operating in Mill's work[4]--a distinction Mill himself would recognize. Mill's philosophy synthesizes fundamental principles, like equality or social welfare, with experiential and historical opinions on how these principles can be achieved. For example, Mill recognized both psychology and economics[5] as evolving fields of study, and would certainly adapt his prescriptions in these fields to meet his goals. This failure leads some of his feminist critics to oversimplify and exaggerate Mill's separation of private and public in a way he himself would not accept. As a result, these feminists overlook the richness and variety that distinction encompasses. Reading Mill in light of the richness of spheres of activities he seeks to encourage reveals a capacity in Mill's

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[4]Gutmann (1980, 58), for example, refers to Mill's defense of laissez-faire economics as a "second-order principle." Shanley (1981, 241) asserts, "Mill's commitment to equality in marriage was of a different theoretical order than his acceptance of a continued sexual division of labor." Tulloch (1989, 14) also discerns two levels of theoretical commitment in Mill.

[5]For a discussion of the status of Mill's economic theory see Ryan (1984).

liberalism for addressing and attacking patriarchy in public and private life, while maintaining and protecting the integrity of different spheres of human activity.

This chapter shows that a feminist rereading and reclaiming of Mill's liberal principles is important for two reasons. First, Mill's philosophy offers a strategy for distinguishing between private and public along rationally defensible lines--harm to others. That is, legitimate political intervention confronts only those actions which harm or threaten to harm another individual. This criterion protects individual autonomy and self-actualization without arbitrarily identifying either the family or the economy as always and absolutely beyond political intervention. Indeed, Mill recognizes the patterns of coercion present in both the family and economy. Mill wages a fight against political, social, economic and domestic tyranny, while preserving space for individual initiative and choice. Mill seeks to protect a private sphere and to combat private power. He offers a principle--harm--which does just that. Mill's distinction between private and public erects a sanctuary for individual expression and growth,[6] while providing for appropriate political intervention[7] in the interest of freedom and equality.

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[6]Rosenblum (1987) identifies this romantic aspect in liberalism and in Mill.

[7]Tulloch (1989, 160-161) discusses the opening in Mill's thought for a positive case for political intervention, for the sake of individual development.

In rightly attacking private and corrupt sources of power, feminism requires a cogent conceptual framework which recognizes the private arena as a legitimate and necessary realm of human self-expression. Mill's liberalism offers such a framework while at the same time addressing, in principle, feminist concerns. Mill articulates a paradigm which attacks private sources of power while preserving social and cultural complexity. Feminism requires such a paradigm if it hopes to balance its attack on socially pervasive patriarchy with a consideration of individual free choice and autonomy.

Just as important, Mill's depiction of the family captures the vast possibilities built into intimate, familial relationships. The family unit, particularly the marital union, expresses a number of complex relationships: emotional, erotic, nurturing, intellectual and power relationships. Mill's family, and its position within his distinction between private and public, recognizes all these dynamics and allows for the richness of family life. For Mill (Sub., 150), families are vehicles of patriarchy,[8] characterized by "domestic slavery" but emotional, sympathetic ties also bind

[8]Of course, Mill did not use this term himself. Its appropriateness becomes apparent however upon reading The Subjection of Women where Mill locates women's subordination within all social spheres. In particular, he identifies women subordination in familial, social (e.g., custom enslaves women), economic and political spheres.

the family.[9] At present, families are about both power and love, and Mill refuses to collapse the two. Mill addresses the asymmetrical power relationships corrupting marital relationships without forgetting the love integral to that relationship. Mill (Sub., 161) hopes for "a marriage of sympathy in equality, of living together in love, without power on one side or obedience on the other." Feminists need a model which both expresses their abhorrence of familial patriarchy and recognizes the love possible in family relationships. Mill offers such a model. Mill's paradigm of private and public offers a principle by which patterns of coercion operating in a variety of social arrangements (including the family) can be tackled without shattering the independence and integrity of that sphere.

In sum, the purpose of this chapter is to demonstrate Mill's reconciliation of the principles of liberty and equality at work in a multitude of spheres and to argue that Mill's liberalism is potentially feminist. His distinction between private and public enriches, rather than corrodes, his feminism. Toward this end, the remainder of this chapter is divided into three sections. The first section elaborates the feminist critique of Mill. The second identifies and develops those principles in Mill's political philosophy most valuable

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[9]A number of feminists point to this Mill's two-sided analysis of the family. See, in particular, Okin (1979); Shanley (1981); Urbinati (1991).

to the feminist project. The third specifically responds to feminist critics.

The Feminist Critique of Mill

Feminist critics of Mill argue that behind Mill's abstract promise of liberty and equality dwells an elitism which subordinates women familially, economically and politically. They point to an incongruence between the formal promise of equality and substantive inequalities. This incongruence becomes apparent through an analysis of Mill's distinction between private and public spheres of activity. Two main strains of anti-liberal feminist criticism exist, echoing the critiques of Locke: a communitarian feminist critique and a marxist/radical feminist critique.[10] The former analyzes Mill's epistemological assumptions and concludes that his identification and definition of rationality and its role in the distinction between public and private effectively excludes genuine gender equality and liberty. The latter stresses women's actual individual and social circumstances, and concludes that Mill's separation of private interests from public concerns inevitably protects socially pervasive patriarchy. Both anti-liberal feminist critiques agree that, intentionally or not, Mill's liberal feminism not only fails to liberate women; in fact, it oppresses them.

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[10]See Chapter 2 of this work, "Locke and Patriarchy" for a defense of these labels which are adapted from the work of Dietz (1987).

The communitarian feminist critique revolves around Mill's emphasis on reason--a reason which they identify as constructively and historically male. According to this reading, Mill (Sub., 121) praises an "apotheosis of Reason" and he denigrates "Instinct" and feeling. Mill's "reason" requires an abstraction from feeling and emotion which is alien to women's cultivation of empathy--an emotion necessary to the well-being of the family. Mill actualizes this split between reason and emotion in his distinction between public and private. "Hard, external institutions of enormous power" (Elshtain 1981, 143) characterize politics whereas women and families "beautify" and "soften,"[11] offering solace from the cold reality of politics. Mill's distinction between private and public reflects his bifurcation of emotion and reason effectively subordinating the feminine character.

Jean Elshtain reads Mill's work in light of a growing body of feminist literature which suggests that the male and female character are psychoanalytically constituted.[12] As

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[11]Elshtain (1981, 144-145) quotes an early essay by Mill on women in which he describes women's role as "to beautify life." Elshtain herself refers to the "traditional softening effect" of women.

[12]Hirschmann (1992, 164-165) argues, "In the rationalist and empiricist epistemologies of Descartes, Locke, Hume, Mill, and Kant, which dominate liberal theory and western thinking, ontology and epistemology are separate and distinct.... [W]e can see that the dichotomy between epistemology and ontology, which characterizes both rationalist and empiricist epistemologies, is specifically masculinist, for it follows from, or at least echoes, the mind-body duality: if the body is separate and distinct from the mind, then theories of knowledge and the ways we conceptualize knowing must be distinct from theories

such, women learn early to empathize, to nurture and to personalize. Men more readily impersonalize moral dilemmas, abstracting personal considerations in order to attain an impersonal perspective. Carol Gilligan (1987, 79), for example, identifies a "different voice" in which "the conventional feminine voice emerges with great clarity, defining the self and proclaiming its worth on the basis of the ability to care for and protect others."

This feminine personality falls victim to a political structure--Mill's liberalism--which neglects and isolates women by defining politics in terms of power, in terms of a male rather than female voice. Men speak politically, women speak privately. Elshtain (1981, 142, 216) suggests that this occurs as a result of "internalization" and "projection" in the male psyche. That is, male fear of female reproductive power, which they can neither ignore nor coopt, causes them to separate themselves from that which they fear (that is, reproductive power) and create a world--the political sphere--in which male power supersedes reproductive power, thereby "embedding the need to defend themselves against women in institutions and activities."

As such, Mill's distinction between private and public results from the male denial of their own femininity and the attempt to remove this affront to their masculinity from politics. In doing this, men, and in this case Mill, relegate

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of existence and the ways we conceptualize being."

both feelings and women to the private familial sphere. Elshtain (1981, 143) elaborates:

> To fend off both the unconsciously imbedded images of female power and the recognition of the "weakness of women" as that which one cannot accept in oneself, men have, over the years, created hard, external institutions of enormous power both as a match for the vision of the powerful Mother within and as a protection, a hedge against their own "weak, female" self.

Thus, Mill's distinction between private and public results from psychoanalytic processes which effectively discriminate against women and reduce politics to power.[13]

The communitarian feminists reject the liberal, and Millian, version of rationality as "instrumentalist" and "egoistic"--a model of rationality to which women should neither aspire, nor through which they can be emancipated.[14] Other feminists, with a less psychoanalytical approach, also target Mill's notion of "reason" as the ultimately limiting aspect of his liberalism. Julia Annas (1977, 191), for example, contends that Mill's emphasis on reason neglects the

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[13]O'Brien (1989, 37) offers a similar analysis of modern politics, although she does not apply her conclusions as directly to Mill. "The state itself is a concept, an abstract principle of continuity rendered as vital entity. This abstract state provides a continuity that is abstracted from the actuality of biological reproduction in which men are marginal and uncertain actors and reconstituted as men's greatest achievement in rational social organization, in making history."

[14]Jaggar (1983, 45) argues "The egoistic conception of rationality is inadequate...for political theory.... The egoistic model of human nature is unable to acknowledge the values intrinsic to participating in an affective, a productive or a rational community because these values involve, by definition, a concern for individuals other than oneself."

role that sentiment and feeling play in the subjection of women, sentiments and feelings which support women's subordination by appealing to women's traditional or "natural" domestic roles. Consequently, she argues Mill,

> is not aware of the massive changes required in people's desires and outlooks before sexual equality becomes a reality.... He does not pay enough attention to the extensive interference in people's lives necessary to ensure that the liberation of women becomes a real change and not just the same attitudes under another name.

Mill's stress on reason leads him to overlook the radical nature of his own theory and to settle for public (political) reforms when the liberation of women requires a radical private revolution. Political reforms cannot alter patriarchal custom and sentiment. In short, she insists that Mill's distinction between private and public subverts his potentially revolutionary principles of equality and liberty by allowing "rational" political reforms while ignoring private sentiment and feeling.

In a similar vein, Jennifer Ring blames Mill's empiricism for the limits of his liberalism.[15] Mill's empiricism forces him to understand women's nature through observable historical data. In doing so, Mill incorporates many stereotypical traits into his characterization of women and their role in

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[15]Ring's thought bridges the communitarian and radical/marxist feminist critiques of Mill. She shares in the radical/marxist feminist conclusions while dwelling on Mill's notion of rationality as a point of contention.

the family. Mill's (Sub., 165) empiricism prompts such assertions as:

> Like a man when he chooses a profession, so when a woman marries, it may in general be understood that she makes a choice of the management of a household, and the bringing up of her family...and she renounces, not all other objects and occupations, but all which are not consistent with the requirements of this.

Again, Mill's methodological assumptions necessarily limit his liberal vision. In Ring's (1985, 28) words, "Mill depended so heavily on an empiricist methodology that his political solutions lay embedded in existing custom, unable to embrace the future."

The radical/marxist feminist analysis of Mill shifts attention from Mill's conception of individual rationality to an evaluation of the societal institutions which inhibit women's equality and liberty. It focuses on the familial, economic and political inequalities which inevitably undermine any formal promise of equality. These feminists argue that Mill's separation of private from public disguises the inegalitarian consequences built into the liberal political structure. Mill's liberalism necessarily assumes male citizens.[16] It masks this assumption by welcoming both sexes

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[16]In terms of liberalism in general, Zillah Eisenstein (1988, 77) asserts, "The fact that liberalism has always privileged the phallus and the social relations of patriarchal society explains why the tension between women's similarity (to) and difference (from men) is embodied within liberal law. As a gendered discourse, liberal law ends up exposing the phallus, because in its view men and women are supposedly homogenous individuals and not sex classes."

in the political sphere but nevertheless refusing to address patterns of coercion in private spheres. By claiming that women's emancipation requires nothing but "that the present bounties and protective duties in favor of men should be recalled," which does not necessitate "protective duties and bounties in favor of women," (Sub., 144) Mill provides for the mere appearance of equality and for the maintenance of inequality. As Diana Coole (1988, 148) writes,

> He does not appear to have recognized that there might be structural reasons for women's continued and reinforced subjugation, predicated on contemporary interests which might be fully rational and useful to their practitioners.

Although Mill feared unrestrained political power and sought to limit its reach by delineating a private arena beyond political intervention, radical/marxist feminists conclude that he remained blind to private patterns of coercion which enslave and subordinate women.[17]

Zillah Eisenstein also attacks Mill's separation of private and public and claims that it embodies a tension between "individuality" and "liberal individualism" in Mill's thought. On the one hand, Mill's philosophy includes a rudimentary conceptualization of "individuality," in which the

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[17]Even "liberal" feminists note and criticize the repercussions of Mill's separation of private and public. Susan Okin (1979, 280) declares that with Mill "the strict separation of the private from the public realm, of the family from economic life, and the assumption that the day-to-day care of the family is women's unpaid work, would all be undermined by the inclusion of women in his theory as the complete equals of men."

individual is understood as actualizing her or himself within complex social structures. On the other hand, his commitment to "liberal individualism" conceives of the individual as disassociated, from and independent of, social realities. This disallows any true actualization of individuality as well as a penetrating analysis of the impediments to the actualization of individuality. This tension between individuality and liberal individualism obscures Mill's diagnosis of the structural nature of patriarchy, necessarily limiting Mill's (and any) liberal paradigm. Eisenstein (1981, 127) concludes that insofar as Mill accepts "the structural base of society--the separation of public and family life--out of which the ideology of liberal individualism is defined, a true individuality is not open to most women." Mill's attempt at a reconciliation between women's social oppression (that is, his recognition of sex and class as oppressive in themselves) and abstract, atomized individualism fails.

The limits of liberalism, of "liberal individualism" in Eisenstein's words, manifest themselves most profoundly for women in the family. Mill's sanguine acceptance of a sexual division of labor within the home indicates the essentially oppressive dimension of his private-public distinction. Mill (Sub., 164) observes that,

> when the support of the family depends, not on property, but on earnings, the common arrangement, by which the man earns the income and the wife superintends the domestic expenditure, seems to me in general the most suitable division of labour between two persons.

According to the radical/marxist feminist critique, assertions such as these, rather than illustrating departures from Mill's fundamental principles, demonstrate the necessarily patriarchal conclusions of Mill's liberalism and his private-public distinction (see, for example, Annas 1977; Cameron 1980; Coole 1988; Eisenstein 1979; Hughes 1979; Pateman 1989). According to this critique, Mill's "failure to question the apparently natural division of labour within the home means that his arguments for democratic citizenship apply only to men" (Pateman 1989, 217).

In this view, women's familial subordination resonates in the economic sphere where it is solidified by Mill's commitment to private property. Despite Mill's call for reforms of the private property system, he failed to recognize that capitalism inherently privileges some while oppressing others. In adhering to the principle of free accumulation and exchange of property, Mill sacrifices freedom and equality for women (see Hughes 1979). Mill's scheme for encouraging cooperatives, where workers band together to produce and procure goods, fails to address the real cause of inequality: private property.

Capitalist private property necessarily reproduces unequal distribution of goods and disparities in the opportunities of different people to procure goods. Ownership is a form of power over people in which the owner controls the

lives and destinations of other individuals.[18] This problem is especially poignant for women, who have historically been excluded from and disadvantaged in the market place. Moreover, Mill's assumption that women will continue to supply the bulk of domestic labor irretrievably handicaps women in this market system. Mill's disregard for the coercive dimension of private property is evidenced when he declares that "The power of earning is essential to the dignity of a woman, if she has not independent property" but "it would not be necessary for her protection, that during marriage she should make this particular use of her faculties" (Sub., 164). As such, Mill is blind to the coercive consequences of a wife's dependence on her husband for economic subsistence. Marriage can never be a partnership of equals while one partner holds the purse strings.[19] In the end, radical/marxist feminists conclude that "the pull toward private property was stronger than the one towards equality in Mill" (Hughes 1979, 537).

Male domination in the family and in the economy effectively subverts Mill's attempt to secure political equality for women. Although Mill called for women's suffrage, he also

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[18]Like the radical/marxist feminist interpretation of Locke, the radical/marxist feminist reading of Mill extrapolates Macpherson's more general interpretation and critique to women's particular circumstances. According to Macpherson (1977, 55), Mill failed to see "that capitalist market relation enhances and replaces any original inequitable distribution...steadily increasing mass of capital."

[19]For a feminist reading of the coercive nature of private property in Mill see, among others, Cameron (1980); Coole (1988); Eisenstein (1981); Hughes (1979).

suggested a strategy of plural voting in order to guard against class faction. Mill suggests that all people require representation but that the quality of each person's vote varies. One way to balance the quality of various votes would be to weigh them in terms of a standard such as education. Everyone, male and female, would have at least one vote; more qualified individuals, more likely according to Mill to be concerned with and knowledgeable of the overall social good, would be awarded plural votes.

> The only thing which can justify reckoning one person's opinion as equivalent to more than one is individual mental superiority; what is wanted is some approximate means of ascertaining that. (Rep., 137-138)

Mill (Rep., 138) recommends educational or occupational standards as possible criteria for plural votes:

> If there existed such a thing as a really national education or a trustworthy system of general examination, education might be tested directly. In the absence of these, the nature of a person's occupation is some test.

In effect, this system of plural voting prejudices against all women and those men of the laboring classes whose educational and occupational possibilities is significantly diminished. A woman's position as homemaker, a position Mill endorses, works against possible educational and occupational achievement. As a result, men's votes would inevitably and significantly outweigh women's votes. In the political sphere, as in the familial and economic sphere, a formal

promise of equality, in this case an equal right to vote, masks an actual inequality, in this case plural voting.

In conclusion, both the communitarian feminist and radical/marxist feminist critique of Mill revolve around a tension in Mill's thought between formal and substantive equality, a tension apparent in his private-public distinction. Both groups of anti-liberal feminists conclude that an analysis of Mill's thought on rationality, family, economics and politics exposes the empty nature of his abstract promise of equality and the oppressive nature of his political and social system.

Mill's Liberal Response

A response to feminist criticism of Mill demands an elaboration of liberty and equality at work in a variety of social contexts as well as an analysis of the role that Mill's standard of harm plays in distinguishing between private and public.

The demand for individual liberty echoes throughout John Stuart Mill's work. While continuing Locke's liberal defense of the individual Mill radically alters its moral foundation. In doing so he transforms the complexion of liberalism. Mill grounds his defense of the individual, and his distinction between private and public, in utilitarian concerns.[20] It is

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[20]Specifically, John S. Mill defines utilitarianism as "The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong

best for the society as a whole, as well as for each individual, that each member is free to pursue his/her own ends to the fullest extent possible. The greatest happiness of the greatest number demands, according to Mill, a robust consideration of individual self-development and variance. In this way, Mill defends individual liberty without appealing to natural rights.[21]

Mill adopts and revolutionizes the utilitarianism he learned from his father James Mill and from Jeremy Bentham. Mill rejects the narrow notion of pleasure and the individual offered by earlier utilitarians. To be human is to be capable of experiencing a pleasure beyond that described by Bentham. Mill's utilitarianism attempts to account for the moral and intellectual pleasures which separate human beings from animals.

> It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone. (Util., 258-259)

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as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, the pain, and the privation of pleasure" (Util., 257).

[21]Mill states, "I forego any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility" (OL, 14).

He concludes that "It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied" (Util., 260).[22]

Mill's notion of individuality reflects this complex understanding of pleasure. For Mill, full individual actualization requires latitude for choice and variance. The ability to choose who and what we become inextricably binds Mill's notion of human choice with both his defense of individual liberty and his faith in human progress.[23] For Mill (OL, 60),

> human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing.[24]

Mill's notion of individuality and choice informs his utilitarianism; his appeal is to "utility in the largest sense, grounded on the permanent interests of man as a progressive

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[22]The question whether Mill does or does not commit a "naturalistic fallacy" in qualifying as well as quantifying pleasure is beyond the scope of this paper.

[23]Berlin (1984, 192-193) remarks on Mill's "passionate belief that men are made human by their capacity for choice--choice of evil and good equally. Fallibility, the right to err, as a corollary of the capacity for self-improvement...these are the principles which Mill never abandons." Berlin elaborates: "He saw that men differed and evolved, not merely as a result of natural causes, but also because of what they themselves did to alter their own character, at times in unintended ways."

[24]Mill underscores the variety and complexity of human nature. "Human beings are not like sheep; and even sheep are not indistinguishably alike" (OL, 67).

being" (OL, 14). Human development requires choice, which results in human beings who are a "noble and beautiful object of contemplation" (OL, 63).

Mill is confident that a full range of choices and experiences combined with the appropriate education allows persons to come to know the fullness of their individual potential. In addition, each individual will become aware of his or her social, empathic nature. Mill (Util., 286) predicts that,

> the influences are constantly on the increase, which tend to generate in each individual a feeling of unity with all the rest; which, if perfect, would make him never think of, or desire, any beneficial condition for himself, in the benefits of which they are not included.

Mill's stress on human choice and progress combine to produce an understanding of liberty and equality which is exercised in a variety of social spheres. Human beings come to know themselves within an assortment of social relationships. Moreover, Mill discerned that liberty--choice--demands a modicum of equality throughout the different spheres of human activity. Liberty not only requires an environment free of social and political coercion, but also an environment free of coercive inequalities. These principles of liberty and equality instruct Mill's vision of the possibilities for human familial, economic and political associations.

As utilitarianism provides the moral foundation for Mill's liberalism, feminism becomes a moral imperative of that liberalism. James Mill and Jeremy Bentham influenced Mill's

utilitarianism; Harriet Taylor influenced his feminism. Mill's interest in women's political and domestic equality predates his relationship with Taylor. However, it was her influence which clarified for Mill the practical consequences of the extension of liberal principles to women.[25] Mill (Auto., 149) describes her contribution:

> What was abstract and purely scientific was generally mine; the properly human element came from her: in all that concerned the application of philosophy to the exigencies of human society and progress, I was her pupil.

Taylor made Mill aware of the pervasive nature of women's subjection to men.[26]

In his relationship with Taylor, Mill personally discovered the patriarchal dangers as well as the emotional riches of married life. When Mill met Taylor she was already married. Despite a growing emotional and intellectual

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[25]See Auto., 143-150, for Mill's account of Taylor's vast influence on his thought. "When two persons have their thoughts and speculations completely in common; when all subjects of intellectual or moral interest are discussed between them in daily life...it is of little consequence in respect to the question of originality which of them holds the pen...the writings which result are the joint product of both, and it must often be impossible to disentangle their respective parts and affirm that this belongs to one and that to the other."

[26]It is beyond the scope of this paper to discern exactly which of Mill's works Taylor co-authored. For a persuasive discussion on this topic see Rossi (1970). Abiding by the conclusions of Rossi's arguments, I will forsake any advantage an appeal to The Enfranchisement of Women would have for my purposes, as Rossi attributes this work primarily to Taylor (Rossi 1970, 41-43). In many specific instances, Taylor's essay delineates more radical conclusions than Mill's, see, e.g., Krause (1982); Rossi (1970).

affinity between Mill and Taylor, Harriet Taylor's marriage to John Taylor endured until his death almost twenty years later. Mill and Taylor both recount, in personal correspondence and formal writings, the distaste they felt for the constraints of marriage and for the gossip which surrounded their private relationship. Custom as well as legalities imprison brilliant women in stunting marriages (Rossi 1970). Within two years of John Taylor's death, the two married. In this marriage Mill experienced the "blessing" of a "partnership of thought and feeling," "a partnership of our entire existence" (Auto., 143). Mill's union with Taylor became his prototype for healthy marriages, marriages built on equality and friendship. From this relationship Mill learned that marriages need not rely on dependence or independence, but on an inter-dependence, "when each of the two persons instead of being nothing, is something" (Sub., 209).

Mill's adaptation of utilitarianism and his relationship with Harriet Taylor culminate in Mill's attempt to balance liberty and equality in various social relationships. Mill deliberately presents a case for individuality and diversity in a variety of private and public spheres. Mill values liberty not only for its service to human progress, to utilitarian considerations, but also for itself as a necessary component of a full human life (see, in particular, Archard 1990; Cohen 1986; Halliday 1976; Rosenblum 1987; Ten 1980; Thornton 1987). Freedom not only serves the "interests of man

as a progressive being" (OL, 14) but the desire for freedom is also firmly rooted in our human nature. "After the primary necessities of foods and raiment, freedom is the first and strongest want of human nature" (Sub., 212). Mill's conception of freedom as both an instrumental and intrinsic good[27] grounds his identification of private activities where the individual is sheltered from oppressive social and political coercion, where the individual is free to discover his or her own nature.[28]

On one level, liberty connotes negative liberty--freedom from external coercion. But Mill also defends a positive liberty,[29] where we are not only free from arbitrary external coercion but also for individual self-actualization. Freedom allows the individual to flourish. One metaphor Mill employs, and which describes the interplay between positive and negative liberty, is his allusion to the Chinese "lady's" foot.[30] Freedom, as this example demonstrates, means freedom

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[27]See Archard (1990) for a fuller elaboration of these two dimensions of freedom in Mill's thought.

[28]Mill alludes to both ends of individuality, "Where, not the person's own character, but the traditions or customs of other people are the rule of conduct, there is wanting one of the principal ingredients of human happiness, and quite the chief ingredient of individual and social progress" (OL, 57).

[29]For an exploration of the two sides of Mill's liberty see, in particular, Archard (1990); Ten (1980); Thornton (1987); Tulloch (1989).

[30]Cummings (1973) uses Mill's reference to the Chinese lady's foot to demonstrate the positive aspect of Mill's liberty.

from restraints as well as freedom to become healthy and whole (see OL, 69). Another metaphor expresses the repercussions of the denial of negative and positive liberty to women. "What is now called the nature of women is an eminently artificial thing--the result of forced repression in some directions, unnatural stimulation in others" (Sub., 138). "In the case of women, a hot-house and stove cultivation has always been carried on...for the benefit and pleasure of their masters" (Sub., 139). For Mill, women's subordination, the denial of liberty to women, means that women suffer arbitrary coercion, and also that women are denied the opportunity to discover and articulate the fullness and variety of their humanity. Mill (Sub., 184-185) expresses this succinctly:

> For the artificial state superinduced by society disguises the natural tendencies of the thing which is the subject of observation, in two different ways: by extinguishing the nature, or by transforming it. In one case there is but a starved residuum of nature remaining to be studied; in the other case there is much, but it may have expended in any direction rather than in which it would spontaneously grow.

This understanding of liberty entails the necessity for psychological and legal freedom (Lonoff 1986). The exploration of options essential to individual development requires freedom from the oppressive dictates of custom, institutions and autocratic law. "Individuals, instead of being deterred, should be encouraged in acting differentially from the mass" (OL, 67). In this way, Mill's Subjection of Women not only forcefully states a liberal case for women's emancipation, but

also acts as a rhetorical treatise[31] in which Mill appeals to both men and women for the end of a system which enslaves women, for an end to their customary and legal oppression. For this reason, Mill illustrates the detrimental effect of female subordination on both men and women.[32]

Mill's definition of liberty assumes equality. If liberty means freedom for self-cultivation, then persons equally deserve the opportunity for fulfillment. If the goal of liberty is the enhancement of each individual's growth, then each individual merits liberty. According to Mill (Util., 319), equality,

> is involved in the very meaning of Utility, or the Greatest Happiness Principle. That principle is a mere form of words without rational significance, unless one person's happiness...is counted for exactly as much as anothers.[33]

More exactly, Mill understood that liberty requires a certain equality in the opportunity to avail oneself of that liberty. As Alan Ryan points out, Mill perceived that freedom "without resources is illusory" (Ryan 1984, 158; see also, Mendus 1989; Robson 1968; Rossi 1970; Thornton 1987). Mill identified

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[31]For an exploration of the rhetorical side of The Subjection of Women see Lonoff (1986, 79). Lonoff notes "Mill took pains with the literary aspects of his arguments; his pleas for liberation, equality, and justice are sustained by a skillful subtle rhetoric."

[32]Mill states that "Women can not be expected to devote themselves to the emancipation of women, until men in considerable number are prepared to join with them in the undertaking" (Sub., 194).

[33]See Hughes (1979) for a discussion of Mill's definition of equality.

familial and economic constraints on liberty as well as political constraints. In doing so he addresses feminist concerns about private patterns of coercion. Liberty mandates a certain standard of equality in all spheres of human activity.

Individuals come to know and express themselves through a variety of intimate and casual contacts. Mill seeks to protect and enhance individual liberty by maintaining the individual choice and spontaneous development integral to these different social expressions of individuality. Mill also understands that patterns of coercion (e.g., oppressive inequalities) detrimental to individual liberty exist within intimate and social relationships. "Citizenship fills only a small place in modern life" (Sub., 160), and Mill calls for emancipation of human life itself. Prejudice invades all social spheres. Inequality in one sphere of activity carries damaging repercussions for success in other spheres. Mill foresaw that the end of women's domination by men entails dramatic reforms throughout social life (see Shanley 1981). In this sense, there exists no clear line of demarcation between private and public activities for Mill (see Robson 1968, 204-205).

Mill wishes to protect a private sphere while at the same time addressing private power. As such, Mill offers a standard, harm to others, which can combat coercive inequities in private spheres, such as the family, while maintaining the

independence and integrity of that sphere. Mill's liberalism can address private challenges to liberty and equality. Mill directly answers feminist concerns that liberalism, in protecting a private sphere, is blind to existing private power.

Throughout On Liberty Mill grapples with the problem of distinguishing individual interests from societal concerns. Mill (OL, 16) draws a circle around the individual within which he or she is sovereign.

> The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental and spiritual.

Society and government should leave individuals alone to determine their own "mental and spiritual" ends, but intervene when individual actions infringe on the liberty of others. The sole reason justifying "physical force in the form of legal penalties, or the moral coercion of public opinion...is self-protection" (OL, 13; see also Ten 1980, 52-67).

The problem becomes the identification of the focus and scope of harm.[34] On this basis, Mill (OL, 80) distinguishes

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[34]Feminist Anne Phillips (1991, 26) finds Mill's distinction between private and public ultimately incoherent. "In the complex and interrelated world we inhabit, there is virtually no action performed by an individual which is without some impact on other people's lives. Does this mean governments can interfere in them all?" Many Mill scholars dispute this sort of conclusion. Rees (1991), for example, claims that the distinction is "between just 'affecting others' and 'affecting the interests of others'." Ryan (1991) discerns three branches of conduct in Mill (prudence,

"the part of a person's life which concerns only himself, and that which concerns others." Just as obvious, however, "no person is an entirely isolated being." Once again the question becomes one of an interpretation of harm. Where is the line between harm to oneself and harm to another? In the service of this elusive distinction Mill points to legitimate reasons for intervention (harm to others) and explicitly identifies illegitimate reasons.[35] Illegitimate reasons of intervention include any purpose other than the protection of others. The fact that an action harms the agent, that society finds the act distasteful or morally repugnant, cannot justify intervention (see Ten 1980). The health, well-being and growth of the individual concerns the individual alone.

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aesthetics and morality) and concludes that government can only legitimately intervene in the latter. Ten (1980, 5-6) offers the most persuasive interpretation. He argues that "[Mill's] case depends on distinguishing between different reasons for interfering with the individual's conduct in any area. Certain reasons are always ruled out as irrelevant, but there is one reason, the prevention of harm to others, which is always relevant."

[35]Mill explains "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him, must be calculated to produce evil in some one else" (OL, 13).

When Mill extends to women equal protection of the law, he promises more than political equality; he offers a strategy by which harm to women can be addressed regardless of the social sphere in which it surfaces. The "same rights" Mill promises to women encompass the equal protection from harm by others. Furthermore, in extending liberal rights to women, Mill begins to understand that women suffer as groups. Harm is not merely an individual phenomena, acted out by one individual on another.[36] Women suffer as a sexual class and as individuals (see Eisenstein 1981). Mill (Sub., 196) asserts that "Marriage is the only actual bondage known to our law. There remain no legal slaves, except the mistress of every house." Mill's liberalism can confront obstacles to individual liberty regardless of their private nature. For example, Mill's standard of harm allows an attack on marital rape. Indeed, Mill's positive notion of liberty permits far greater interference in individual lives than even Mill anticipated (Tulloch 1989). Harm can take the form of encroachments on people's opportunities for self-actualization. In this way, Mill's principles can be interpreted to support affirmative action.[37]

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[36]Fox-Genovese (1991, 178) points to the "ways in which women's relation to individualism transformed (Mill's) thought."

[37]Recently, David Dyzenhaus (1992) has argued that Mill's harm standard could be logically extended, in keeping with Mill's own principles, to allow censorship of pornography on feminist grounds. Reading On Liberty in light of The Subjection of Women reveals not only the breadth of Mill's

In sum, Mill's distinction of private from public revolves around the standard of harm. This standard allows Mill to preserve a private sphere while attacking private power. Mill explicitly explores liberty and equality at work in the familial, the economic, and the political sphere. An analysis of Mill's understanding of each of these spheres should reveal the ability of Mill's liberalism for attacking patriarchy while protecting free individual expression and association. Mill does not forget substantive equality in his promise of formal equality.

Two relationships actually comprise the family: the marital relationship and the parental relationship. Both relationships affect and reflect other social and political relationships. Both are open to political intervention.[38]

At present the marital relationship encompasses two dynamics; both love and power define this relationship. The healthy, or corrupt, actualization of the marital relationship dramatically influences the children. On the one hand, Mill

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understanding of the unique social harm incurred by women, but also reveals an opening for a less narrow identification of the presence of harm. Just as one may be prohibited from shouting fire in a crowded theater, or in Mill's example, prohibited from inciting an angry mob by calling corn dealers "starvers of the poor" (OL, 56) one may be prohibited from distributing incendiary pornography in a society already inflamed with patriarchy. According to Dyzenhaus, Mill understood the potential harm of expression, as well as, conduct. In contrast, Robert Skipper (1993) argues that Mill's theory allows no such revision of its harm principle.

[38]See Coole (1988) for a more skeptical analysis of Mill's intervention in the family.

identifies marriage with power. Within marriage Mill finds the roots of patriarchy (see, in particular, Millet 1970; Shanley 1981; Tulloch 1989). The domination of women by men begins in the family and reverberates outward.[39] The subjection of women begins at home. A husband's despotic rule over his wife is akin to the rule of slaves by masters. Mill (Sub., 148) argues that "no slave is a slave to the same length, and in so full a sense of the word, as a wife is," for a husband can claim "from her and enforce the lowest degradation of a human being, that of being made the instrument of an animal function contrary to her own inclination."

The despotic power exercised within the family presents a major obstacle to progress. It denies humanity the full benefit of women's potential contributions. Moreover, a husband's despotic power over his wife produces children who value power as opposed to liberty.[40] Boys learn that manhood, rather than virtue or merit, yields power and recognition. Mill (Sub., 196) observes that,

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[39]Mill explains, "And here, I believe, is the clue to the feelings of those men, who have a real antipathy to the equal freedom of women. I believe they are afraid, not lest women should be unwilling to marry, for I do not think that any one in reality has that apprehension; but lest they should insist that marriage should be on equal conditions; lest all women of spirit and capacity should prefer doing almost anything else, not in their own eyes degrading, rather than marry, when marrying is giving themselves a master, and a master too of all their earthly possessions" (Sub., 145).

[40]Rossi (1970) explores these two benefits of sexual equality: 1) the doubling of human talents, 2) the advantages for socialization.

> All the selfish propensities, the self-worship, the unjust self-preference, which exist among mankind, have their source and root in, and derive their principal nourishment from, the present constitution of the relation between men and women.

Mill hopes for a time when women's human capacities double the talents available for human progress.

Love, as well as power, defines the marital union. The marriage relationship embraces the possibility of the richest of friendships, where each partner's happiness and fulfillment intensifies the other's. In this healthy union, each spouse understands her or his private interests in light of the union as a whole, and in light of the benefit for one's spouse.[41] The possibility of emotional, intellectual and erotic affinity animates marriage.[42] The family, and in particular the

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[41]Note the interesting symmetry between this description of the possibilities latent in marriage and Mill's prediction, which we analyzed earlier in this chapter, that eventually each of us would understand our social natures, that each would discern the private benefit of the public good. In sum, Mill hopes for an end to the clash between private and public interests. Healthy, giving marriages provide the building blocks for such an understanding by the individual of her/his social nature.

[42]Shanley (1981) disapproves of Mill's reticence on the sexual component of marriage. In fact, Mill refers to sex as an "animal function" and an "animal instinct." Mill also maintains in his Autobiography that his twenty year pre-marital relationship with Taylor "was one of strong affection and confidential intimacy only" (Auto., 136). Mill went so far in an early draft of his Autobiography to describe how he and Taylor "disdained, as every person not a slave of his animal appetites must do, the abject notion that the strongest and tenderest friendship cannot exist between a man and a woman without a sensual relation, or that any impulses of that lower character cannot be put aside when regard for the feelings of others, or even when only prudence and person dignity require it" (see FN 1, Auto., 137). Despite Mill's depreciation of the importance of sexual expression in marital

marital relationship "in its best form is, as it is often said to be, a school of sympathy, tenderness, and loving forgetfulness of self" (Sub., 153).

Mill details the political benefits of a marriage based in friendship. Democratic liberal government requires members who value liberty, equality and self-cultivation. Mill's description of a healthy, even ideal, marriage produces such citizens. The observation of the loving and voluntary commitment between one's parents vividly demonstrates for the children the advantages of liberal equality throughout society. Children grow confident of their own worth, cognizant of the worth of others. Children mature to liberty and equality, perceiving the shallow security of power without merit. In contrast, a corrupt marriage, based in power and slavery, results in children who become little tyrants, capriciously exercising whatever arbitrary power they can grasp. Mill (Sub., 153) describes this corrupt family as "a school of wilfulness, overbearingness, unbounded self-indulgence, and a double-dyed and idealized selfishness." Absence of liberty corrupts the family, impeding the care, nurturance, socialization and love manifest in that relationship. In this way, Mill graphically illustrates the dialogue between family and politics. Family life carries significant social and political implications (see Shanley 1981; Urbinati 1991).

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friendships, he certainly allows room for this expression.

Mill understands that the "personal is political" to the extent that the domestic and political spheres carry profound implications for each other. Furthermore, Mill's (Auto., 111) vision of friendship comprises one aspect of his attack on patriarchy. The possibility of a "most valuable friendship" in marriage, combined with the political intervention necessary to prohibit the harm of one marital partner by another, can together attack patriarchy.[43] As patriarchy has roots in family, a resolution of patriarchy begins with the family.

Mill addresses the parental relationship more briefly. Parents owe their children an appropriate upbringing conducive to the child's fruition as a mature, free and equal adult. This imposes an obligation on parents which can be enforced by political means. Government can interfere in the family for the sake of the child's education. "One of the most sacred duties of parents" is to provide for their child an "education fitting him to perform his part well in life towards others and towards himself" (OL, 105). The import of this duty demands state enforcement. However, Mill attempts to balance state interference for the sake of equality with individual liberty. For this reason, he suggests a number of methods, such as compulsory exams or defraying costs, which can assure educational achievement without promoting educational uniformity. Mill hopes to provide parents with the widest latitude

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[43]Urbinati (1991) points to the role of friendship in marriage as a principle for the transformation of socially pervasive patriarchy.

possible in choosing educational strategies while assuring a minimum of education for all children. Mill (OL, 108) ties his interference in the parental relationship to his standard of harm:

> The fact itself, of causing the existence of a human being, is one of the most responsible actions in the range of human life. To undertake this responsibility--to bestow a life which may be either a curse or a blessing--unless the being on whom it is to be bestowed will have at least the ordinary chances of a desirable existence, is a crime against that being.

In the end, Mill distinguishes the family from politics on the basis of their legitimate ends. Families should operate in terms of love--personal, partial, discriminating love. Persons experience the interests of one's spouse, or one's child, poignantly and profoundly. A full account of family life demands an exploration of this intimate connection. In contrast, politics and government should act impartially.[44] The liberty and equality of each individual demands the impartial application of the power of government in the prevention of harm. Equally dangerous would be any attempt to found a politics of love and any attempt to remove the partial, personal component in the family.

The task is to employ government to prevent harm to others without interfering in the personal expression of love. This can be achieved through a close attention to the reasons for intervention. Intervention to prevent the harm of one

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[44]Mill discusses the definition of impartially, and its connection to various activities (Util., 300-301).

partner by another constitutes legitimate intervention. Intervention for the sake of the agent himself or herself constitutes illegitimate intervention. The free choice by a couple of a particular (homosexual or heterosexual) marital arrangement, whether we find that arrangement unfair in its repercussions or distasteful in its expression, deserves protection as long as each partner legitimately chooses that arrangement for herself or himself. Mill supports intervention when one partner cannot protect himself or herself, when the patterns of coercion are so great as to render free choice impossible. Mill warns, however, that this intervention should neither add unnecessarily to political power and bureaucracy nor contribute needlessly to uniformity of action.

Mill's depiction of the wife as a slave, and his description of the presently constituted marriage relationship as a master-slave relationship, refers back to his prohibition of slave contracts in On Liberty.[45] According to Mill, one cannot exercise his or her liberty by abdicating that liberty in favor of slavery. Persons cannot deny their status as persons, as agents capable of choice and self-actualization. One's choice cannot legitimately forsake all future choices. "The principle of freedom cannot require that he should be free not to be free. It is not freedom to be allowed to alienate his freedom" (OL, 103). Mill's prohibition of

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[45]Pateman (1988) points out the repercussions of Mill's prohibition of slavery for women's present enslavement in marriage.

slavery lays the foundation for a political and social attack on familial patriarchy, on marital slavery. The parallel between patriarchal marriages and slavery opens an avenue for positive political intervention to encourage female liberation, to end women's enslavement. The elimination of domestic slavery requires an expansion of familial, economic and political opportunities through positive political intervention.

As always, Mill attempts to reconcile the dictates of liberty and equality in the family. Government can interfere for the sake of individual protection, but not in order to mandate a pre-established division of labor. Free marital expression consists of the opportunity to determine as a couple the give and take in that relationship. This liberty of determination cannot take place in an atmosphere of coercive inequality or customary prejudice. The sexual division of labor "neither can nor should be pre-established by the law, since it must depend on individual capacities and suitabilities" (Sub., 156).

Mill's paradigm of private and public attempts to reconcile the attack on social patterns of coercion which require government intervention with a concern for the sovereignty of the individual. Mill's standard of harm to others does exactly this. Family arrangements which express free choice remain immune from government intervention. Government should not violate free choice by establishing

certain marital arrangements (e.g., uniform guidelines for the sexual division of labor). Moral repugnancy or distaste does not warrant government intervention. In contrast, marital arrangements in which one person harms the other, in which one partner victimizes the other, or in which one partner's free choice is eliminated, demand political attention. The harm of one partner by another legitimizes intervention. In this way, Mill allows for the love possible and power present in marital relationships. Mill allows politics to intervene in the family while preserving the difference between the two.

The actualization of free choice in the family depends upon freedom and equality in other spheres of activities. Familial freedom for women demands freedom in the economic and political spheres. Mill's evaluation of economic and political activities demonstrates the principles of freedom and equality operating throughout Mill's philosophy.

In his autobiography, Mill (Auto., 138) explicitly identifies the goal guiding his economic theory:

> The social problem of the future we considered to be, how to unite the greatest individual liberty of action, with the common ownership in the raw materials of the globe, and an equal participation of all in the benefits of combined labour.[46]

Mill struggles with the problem of reconciling liberty, equality and social welfare in his Chapters on Socialism. In this work, Mill evaluates different economic systems, communism and capitalism, in terms of their promotion of

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[46]The "we" Mill refers to is Taylor and himself.

independence, social welfare and equality. Whereas communism[47] generates an oppressive centralization of authority, capitalism engenders troublesome, and equally oppressive, class inequalities. Mill notes that capitalism fails to correlate labor with reward or merit with success. Communism, however, stifles healthy competition while empowering a large managerial cadre.

The question of which system to support becomes an empirical one. Mill supports whichever system works best, judged in light of the over-arching principles of liberty and equality. In the end, he supports a modified capitalism, but his support is provisional. Mill (Soc., 275) concludes that "individual property has presumably a long term before it, if only a provisional existence." This does not entail, however,

> that it must exist during the whole term unmodified, or that all rights now regarded as appertaining to property belong to it inherently, and must endure while it endures.

Mill provisionally rejects communism as "not available as a present resource" (Soc., 275). Communism assumes a human nature, a "social fabric" not yet available.

In addition to his provisional support of capitalism, Mill looks to government to encourage cooperative production. With a taste of independence and freedom in the family,

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[47]Mill uses the term "socialism" where I use the term "communism." The socialism Mill criticizes equals communism as we now understand it. This is important because, as will be demonstrated, Mill recommends what some call a liberal "socialism."

economic market and politics, workers can extend that freedom by forming industrial cooperatives where joint production overcomes individual inequalities (Ryan 1984). Mill states:

> Eventually, and in perhaps a less remote future than may be supposed, we may, through the cooperative principle, see our way to a change in society, which would combine the freedom and independence of the individual, with the moral intellectual, and economic advantages of aggregate production.[48]

The principles of liberty and equality shine through Mill's historical conclusions. Mill's particular economic suggestions rank second to his fundamental principles of liberty and equality (Gutmann 1980; Ryan 1984).

In the political sphere, as in the economic sphere, Mill's struggle with the political prerequisites of liberty and equality is compounded by his concern for social welfare--progress. Mill actively championed women's suffrage. He declared that women deserve, and require, equal protection of law. Female political participation advances both women and politics. Mill (Rep., 143) takes,

> no account of difference of sex. I consider it to be entirely irrelevant to political rights as difference in height or in the color of the hair. All human beings have the same interest in good government; the welfare of all is alike affected by it, and they have equal need of a voice in it to secure their share of its benefits.

It should be recalled that equal "political rights" for Mill entails impartial protection from harm by others. This does

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[48]Mill, Principles of Political Economy. Quoted in Gutmann (1980).

not necessarily exclude a consideration of the unique harm done to women.

Mill (Rep., 127) argues for a representative democracy "representative of all, and not solely of the majority." Mill fears a tyranny of a capricious majority as much as that of a political despot. For this reason Mill recommends a number of strategies for blending majority with minority rights, liberty and equality with progress. "Universal but graduated" (Rep., 143) suffrage represents one such attempt. By merging a consideration of the quality of a vote with the quantity of votes Mill hopes to protect against class faction (i.e., an angry and short-sighted laboring class) as well as provide for social progress and welfare.[49] Mill seeks to reward more qualified voters with a weighted vote. Qualities deserving recognition are those that demonstrate a far-sighted concern for the public interest as opposed to selfish individual or class interest. Mental superiority justifies plural votes. Mill (Rep., 137) immediately recognizes, however, the problems with discerning the quality of a vote. He rejects property as a measure of quality: "accident has so much more to do than merit with enabling men to rise in the world" that such a measure "will continue to be supremely odious." Mill (Rep., 138) tentatively suggests that education or occupation "might" serve as "some" test. Mill limits plural voting so that no

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[49]Robson (1967) discusses the connection between plural voting and progress in Mill's thought.

single class could dominate the majority. He also elaborates a number of other strategies designed to insure minority representation.[50]

This strategy, plural voting, represents a specific suggestion founded on deeper principles. Once Mill discerned that any of his particular strategies violated their justifying principle, he would abandon it promptly. He recognizes the evolving nature of knowledge, particularly knowledge of social phenomena (note his discussion of economics). It is therefore mistaken to dismiss Mill's paradigm on the basis of some misguided (tentative and contingent) specific recommendations. Upon recognizing the corrosive effects of plural voting, Mill would, I believe, revise his strategy in order to adequately service his principles of liberty and equality.

Communitarian and Radical/Marxist Feminists: A Reply

This elaboration of the variety of social spheres in Mill's thought reveals the radical potential in Mill's private and public paradigm for addressing socially pervasive patriarchy while maintaining the integrity of different spheres. Mill's philosophy attacks coercive inequalities without

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[50]One such method Mill favors to insure minority representation is proportional representation. Interestingly, some feminists also look to proportional representation as one way in which women's voices are not utterly silenced. Unlike the "winner take all" strategy of determining representation, proportional representation guards against one dominant class or faction monopolizing discussion or policy formation. For a discussion on the feminist advantages of proportional representation see Phillips 1991, 80-89.

collapsing private pursuits with public duties. He backs his formal promise of equality with an understanding of substantive inequality. He perceives, and addresses patterns of domination in all social spheres, but refuses to diminish private to public, love to power, or families to domination. Mill's private and public paradigm conveys the richness and complexity of human nature, a multi-dimensional human nature in which individuals realize themselves in a variety of social contexts (see Rosenblum 1987). He explores in detail three social spheres: the domestic, economic and political spheres. All these spheres are necessary, but none sufficient in and of themselves, as expressions of human liberty and equality. As such, Mill balances liberty and equality within, and among, spheres of activity.

The underlying principles of liberty and equality operating in Mill's analysis of private and public spheres of activity allow a specific response to the communitarian and radical/marxist feminist critiques of Mill. As explained earlier, the communitarian feminist critique centers upon a perceived separation in Mill's thought between emotion and reason. This allegedly reflects a difference between men and women. Communitarian feminists argue that Mill depreciates and subordinates women and the emotional private family to the rational (male) public realm. Mill's distinction of private from public is not founded on a difference between men and women, however, but in two different aspects of every

individual's life: the partial personal expressions of love and the impartial interest in public welfare.

Mill tries to reconcile these two dimensions of human nature in his private and public paradigm and in his depiction of the individual. Each individual expresses him/herself in a variety of personal and impersonal contexts. Mill (OL, 60) explains that "desires and impulses are as much a part of the perfect human being, as beliefs and restraints: and strong impulses are only perilous when not properly balanced." Mill (OL, 61) defends emotions as necessary to healthy societies:

> whoever thinks that individuality of desires and impulses should not be encouraged to unfold itself, must maintain that society has no need of strong natures--is not the better for containing many persons who have much character--and that a high general average of energy is not desirable.

Mill accounts for and balances the pull of both reason and emotion in society and in the individual. He does not subordinate emotion to reason or family to politics. All express humanity. In his Autobiography, Mill's speaks of a mental crisis he suffered, through which he came to believe that "The maintenance of a due balance among the faculties, now seemed to me of primary importance. The cultivation of the feelings became one of the cardinal points in my ethical and philosophical creed" (Auto., 86).

Communitarian feminists mistakenly interpret Mill's denigration of instinct and prejudice as a depreciation of emotion and feeling (Urbinati 1991; also see Robson 1967; Thornton 1987). Rather than "abstracting" reason from

emotion, Mill coordinates the two into a portrayal of a healthy individual, male or female. Furthermore, Mill employs the Subjection of Woman as both a rhetorical and a rational tool. Mill discerned that the elimination of women's subordination requires a re-education of sentiment as well as a rational philosophic argument (Shanley 1981; Urbinati 1991).

Whereas the communitarian feminist misreading of Mill results from a mistaken association of men and women with reason and emotion in Mill's thought, the radical/marxist feminist misinterpretation ensues from an exaggeration of the "separateness" of private and public activities. Furthermore, it fails to distinguish principles of fundamental import in Mill's philosophy from practical, provisional suggestions.[51] The preceding analysis exposes the complexity in Mill's paradigm of private and public which allows--indeed demands--a concern for coercive inequality. Mill's private and public paradigm incorporates a dialogue between formal equality and substantive inequality.

Radical/marxist feminists read Mill's support of laissez-faire capitalism, plural voting, and a sexual division of labor in the home as indications of the conflict in Mill's thought between formal equality and substantive inequality. Mill, however, recognized the tenuous, evolving character of

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[51]Gutmann (1980); Shanley (1981); Ten (1980); Tulloch (1989) all discern two levels of theoretical commitment in Mill's philosophy.

the study of economics and of human social behavior.[52] We examined the tentative and provisional nature of Mill's economic and political theory. Likewise, his psychological assumptions about the sexes and their appropriate roles in the family can, and for a true understanding must, be distinguished from his deeper commitment to freedom and equality. Although Mill (Sub., 164) says that "It is not...I think, a desirable custom, that the wife should contribute by her labor to the income of the family" (my emphasis), he reiterates several times throughout the same text that no one can know the true nature and roles of women. "I consider it presumption in anyone to pretend to decide what women are or are not, can or cannot be, by natural constitution" (Sub., 173).[53] His particular recommendations of procedures and strategies depend entirely on their service to liberty and equality in the sphere of activity in which they operate.

In conclusion, Mill's private/public paradigm provides for liberty and equality while protecting the private aspect of the family. Mill coherently extends liberal principles to women. Rather than exposing the limits of Mill's liberalism, this endeavor reveals the breadth and potential of his

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[52]See, especially, Mill's Auguste Comte and Positivism (1961).

[53]Earlier in the same text Mill asserts, "It is only a man here or there who has any tolerable knowledge of the character of the women in his own family. I do not mean, of their capabilities; these nobody knows, not even themselves" (Sub., 141).

paradigm for articulating the complexity of humanity and society. Mill advances Locke's liberal paradigm by explicitly identifying a standard of intervention which regulates interaction between the political sphere and the economic and familial spheres. Whereas Locke's political philosophy contains a latent potential for political intervention in various spheres, Mill systematically demarcates private and public activities in terms of a standard of intervention. Whereas Locke's liberal philosophy begins to illustrate the transformation all human relationships undergo when individuals are considered free and equal, Mill consciously promotes that transformation. The political dictate to protect the individual from harm by others transcends familial boundaries. Mill picks up the liberal project where Locke left off, self-consciously working out the interactive relationship between spheres of activities.

Mill's standard of intervention--harm to others--provides the beginning of a model for government intervention for the sake of gender equality. It is this standard that requires elaboration. Can this liberal standard be extended so as to fully recognize how women suffer as women? Can such an extension maintain the liberal distinction between private and public? These questions guide my next chapter.

CHAPTER IV

RAWLS AND GENDER JUSTICE

As Mill rejects Locke's foundation for liberalism in natural rights, John Rawls rejects utilitarianism as an adequate basis of liberal freedom. Yet all three promise individual liberty and, consequently, distinguish between private and public activities. Rawls reinvigorated the continuing debate over liberal ideas and practices with his widely acclaimed--and just as widely criticized--reworking of liberal political thought, A Theory of Justice. Rawls' philosophy thus offers feminists an opportunity to test their criticism of liberalism against a twentieth century formulation of the tradition.

Many feminists interpret Rawls' thought as another indication of liberalism's inability to articulate and to address women's differences, differences in reproductive, familial and economic roles which root women's oppression (see, for example, Benhabib 1987; Hirschmann 1992; Pateman 1989; Young 1990). For these feminists, Rawls' abstract method effectively erases women's differences, silences their voices and ignores their lives. In their view, Rawls' overt attempts to include women in his principles of justice merely serves to obscure still further the limits of liberal

principles for women's emancipation. Nancy Hirschmann (1992, 76) claims that:

> The structural sexism of contemporary obligation theory is...masked by ostensible improvements in contingent sexism, but, in a continuum of historical devolution, it is systematically implicated and intertwined in the concepts these theories inherit from the Enlightenment.

This chapter argues that Rawls' feminist critics misconstrue the intent and emancipatory potential behind his principles of justice. Rawls' method integrates both universal and particular concerns, both "male" and "female" voices (Okin 1989b). Indeed, Rawls' theory fails only when he overlooks the revolutionary nature of his own liberal principles (see Kymlicka 1989, 95). Rawls offers a strategy with which we can discern both what we have in common, as members of liberal societies, and how we differ. Rather than erase or ignore those differences, Rawls' political philosophy incorporates human individual differences into its very foundation (see Kukathas and Pettit 1990, 135-136). The central question concerns the fair terms of cooperation between individuals with different experiences and different goods; these fair terms of cooperation mediate between persons understood as "self-authenticating sources of valid claims" (PL, 33).

This chapter critically extends the sympathetic reading of Rawls' philosophy offered by Susan Okin in two ways. First, reading Rawls' work in light of previous liberal thinkers reveals how the contemporary liberal project began and progressed with the work of Locke and Mill. By

elaborating the emancipatory implications in Rawls' own thought, the feminist potential implicit in earlier liberal accounts is exposed.

Second, and more importantly, whereas Okin locates a fundamental ambiguity in Rawls' work apparent in his reluctance to apply the principles of justice to the family (Okin 1991, 181), I argue that this reluctance on Rawls' part is as much a product of his choice of focus as a sentimental, patriarchal desire to protect the family from the demands of justice.[1] This becomes apparent when one examines Rawls' distinction between ideal and non-ideal theory. By focusing directly on the relationship between family life and politics in Rawls' thought, by explicitly identifying both the private and public dimensions of the family, I demonstrate that what Okin labels an "internal paradox" (1989a, 249) actually reveals Rawls' deep concern for both the integrity of the family unit and the emancipation of women through an extension of the principles of justice. Rawls' ambivalence about the relationship between justice and the family does not reflect a patriarchal blind spot to coercive family structures, but a deep understanding of the role of family life in expressing diversity, individual goods and liberty.

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[1]Rawls remarks in Political Liberalism: "Other major matters are omitted, for example, the justice of and in the family, though I do assume that in some form the family is just. The underlying assumption is that a conception of justice worked up by focusing on a few long-standing classical problems should be correct, or at least provide guidelines for addressing further questions" (PL, xxix).

In sum, like Okin, I discover in Rawls' principles a profound emancipatory potential for the alleviation of gender inequities. Unlike Okin, I find his private-public distinction both emancipatory and logically consistent. To make this case, I first elaborate the continuing feminist critique of Rawls, then suggest a possible liberal response apparent in Rawls' political philosophy. This allows a specific response to the feminist critics of Rawls' identified here. In all three steps, I concentrate on Rawls view of the relationship between private and public: in the first, on the feminist critique as it challenges this distinction in his work; in the second, on the consequences of this distinction for gender equity; in the third, on the potential for Rawls' distinction between private and public to meet the continuing feminist challenge to its efficacy. I argue that this private-public distinction protects both women and men, while providing a potent weapon against patriarchy, wherever it surfaces.

The Feminist Critique of Rawls

Rawls himself recognizes two broad lines of criticism prompted by A Theory of Justice. These critiques either represent Rawls' liberalism as:

> intrinsically faulty because it relies on an abstract conception of the person and uses an individualist, nonsocial, idea of human nature; or else that it employs an unworkable distinction between public and private that renders it unable to deal with the problems of gender and the family. (PL, xxix)

Feminists adopt both these lines of argument. The first, which I call the revisionist liberal feminist critique, charges Rawls with failing to apply his principles of justice to the gender-structured family, failing to address the injustice in reproductive relationships (see, for example, Green 1986; Kearns 1983; English 1977; Okin 1989b). Ultimately, however, many of these feminists find Rawls' principles viable and desirable, given a complete application of their strictures. My own interpretation belongs in this camp. Contrary to this view, however, I argue that Rawls' principles of justice necessarily impact on the family, to the extent that families belong in the basic structure; at the same time, however, Rawls locates a fundamentally private aspect of family life which places families beyond political control. In the end, I demonstrate that Rawls does this consistently and persuasively. The second strain of feminist criticism, which I call the communitarian feminist criticism,[2] challenges the adequacy of the principles of justice themselves, denying their cogency for articulating feminine experiences. These feminists reject the universalizing, impartial character of Rawls' principles of justice as inevitably blind to women's particular circumstances and to the coercive relationships which enforce women's subordination (see, for example,

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[2]The characterization of this strain of feminist critique as "communitarian" is adopted from Chapters 2 and 3, where similar critiques of Locke and Mill were identified. See Chapter 2 for a defense of this label.

Benhabib 1987; Matsuda 1986; Pateman 1989; Young 1990). Some communitarian feminists counterpoise Rawls' ethic of justice with an ethic of care, an ethic, they assert, more in tune with women's reality (see, for example, Held 1993; Ruddick 1989).[3] I elaborate each of these two feminist readings, liberal and communitarian, in turn.

The liberal feminist critique applauds Rawls for his effort to create the necessary material and economic bases of liberty; it denies, however, the feminist potential of such a liberalism until the distinction between private and public is reworked, or even jettisoned.[4] Only a liberalism which "cuts

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[3]The feminist critique lacks a sustained attack of Rawls from the left. This can be attributed to two factors. First, feminists often adopt and deepen the prevailing interpretations of particular thinkers and the general marxist criticism of Rawls is itself less prevalent in the literature responding to Rawls, for two prominent, early marxist critiques, see Macpherson (1973); Nielsen (1978); cited in Kymlicka (1990a, 160). Second, to a large extent, Rawls coopts a socialist critique of his work by both identifying and addressing economic patterns of coercion. Rawls notes that in "a democratic regime in which land and capital are widely though not presumably equally held...and distributive shares satisfy the principles of justice, many socialist criticisms are met" (TJ, 280). It should be noted that in some respects Young (1990, 32) criticizes Rawls from the left when she accuses him of focusing on distributive justice and forgetting structural processes which reenforce and recreate domination. Young asserts that "a distributive understanding misses the way in which the powerful enact and reproduce their power." I have treated Young in this chapter as an expression of communitarian feminist criticism, because she traces this failure to appreciate the contexts of power to Rawls' abstract method which, in her view, renders power relationships unintelligible.

[4]Green (1986, 36) presents an example of the more extreme, later case. "Liberalism, shorn of the public/private distinction which has heretofore hindered the application of liberal principles to the question of justice within the

through the public/private dichotomy remains a secure foundation for feminist thought and action," and in fact, there exists "much in Rawls' work to encourage the suspicion that the public/private distinction is intrinsic to liberalism" (Green 1986, 27). At the very least, Rawls' theory "is flawed by the ramifications of the public-private split" (Kearns 1983, 41) which relegates family life, and gender relations to the sacrosanct arena of private activity, beyond the reaches of justice.

The private nature of the family is evident in the way Rawls identifies the participants in the original position,[5] those agreeing to the principles of justice to guide society, as "heads of families." As such, they represent the interests of families, rather than individuals; they look forward to the interests of their progeny as well as themselves. This characteristic of parties to the agreement, however, "makes the family opaque to claims of justice" (English 1977, 95; see

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family, remains a sturdy foundation for thorough-going feminist action." It is hard to imagine what a liberalism "shorn" of its private-public distinction would look like. I have argued throughout this dissertation that this distinction defines liberalism, that it characterizes liberalism at its essence. To the extent that some feminists seek to jettison the private-public distinction, rather than rework it, they have moved away from anything which would reasonably be considered liberal.

[5]The original position is a device of representation Rawls employs to expose the fair terms of cooperation. I will examine this concept, in detail, later in this chapter.

also, Okin 1987, 48-50),[6] alerting some feminists to a far deeper problem in Rawls' work. In their view, Rawls' silence regarding gender structured families implies a reluctance, or even an inability, to speak to women's claims for emancipation, to effectively combat that aspect of families which constitute a barrier to equal opportunity for women.

Despite his assertion that persons behind the veil of ignorance will be ignorant of their sex,[7] Rawls never incorporates the ramifications of this inclusion into his theory. He overlooks the radical transformation of gender-structured society and family this would require (Kearns 1983). After all, if parties to the contract are truly ignorant of their sex, they could never risk allowing the maintenance of a patriarchal society. Although Rawls recognizes the family as a significant barrier to equal opportunity (TJ, 301), he never comprehends the significance of that obstacle to liberty for

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[6]It should be noted that Rawls appropriates this critique in Political Liberalism. In this later work, Rawls stipulates that the "parties can be required to agree to a savings principle subject to the further condition that they must want all previous generations to have followed it" (PL, 274) and drops the head of families constraint. This way, parties necessarily consider the interests of subsequent generations without being characterized as heads of families.

[7]Actually, in A Theory of Justice Rawls never mentions sex specifically in terms of his "thick" veil of ignorance. "Among the essential features of this situation is that no one knows his place in society, his class or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like" (TJ, 12). Rawls corrects this oversight and his sexist language in later work. Rawls rules out as "not relevant from a moral standpoint...a knowledge of our sex and class" (Rawls 1975, 537; see Okin 1987, 46).

women. Rawls asks, "Is the family to be abolished then?" (TJ, 511). He replies that "there is much less urgency to take this course" (TJ, 511), for "when the principles of fraternity and redress are allowed their appropriate weight, the natural distribution of assets and the contingencies of social circumstances can more easily be accepted" (TJ, 512). This suggests that, for Rawls, women can accept patriarchal families as "natural" and search for redress outside the family itself.

Indeed, according to Okin, Rawls simply assumes the family to be just (Okin 1989b, 235-237). In Part III of A Theory of Justice Rawls traces moral development, acquired by children in families. He ties this moral development to its culmination in the acquisition, by adults, of a sense of justice. In just societies, children proceed through three stages of moral development: morality of authority, of association, of principles (TJ, 462-479). The family plays an essential role in the first two. In the first, the family encourages the internalization of "a collection of precepts" (TJ, 466) regarding rewards and punishments; these precepts result from familial authority based in love and affection. This demands that the parents "exemplify the morality which they enjoin" (TJ, 466). Indeed, the parents themselves must "be worthy objects of (the child's) admiration" (TJ, 465). In the second stage, the family conveys the necessity to see life from a variety of points of view, inculcating the need "to

honor one's obligations and duties" (TJ, 471). Affection and attachments prevalent in the family ingrain in the maturing children the desire to reciprocate benefits. Finally, in the third stage of development, the adult generalizes from the moral precepts acquired in the family, coming to "appreciate the ideal of just human cooperation" (TJ, 474). The adult now acts from principles of justice as well as affection.

Given this explicit and detailed picture of the role of the family in the production of a society populated by persons with an adequate sense of justice, Rawls' silence concerning justice within the family appears inconsistent. After all, if families model just relations for children, the question of just relations within the family becomes significant. Okin argues that Rawls's reluctance to explore justice between family members manifests an ambivalence internal to his work regarding the private or public nature of the family.[8] On one hand, Rawls designates the family as part of the basic structure of society, a basic structure susceptible to the principles of justice; on the other, he fails to apply justice to the family. He details the essential role of families in just societies while disregarding the impact of unjust families. In Okin's (1987, 47) assessment, Rawls is "effectively trapped by this assumption...that life within the

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[8]Kymlicka (1990a, 190) also asserts that Rawls "flip-flops on whether the family is or isn't one of the basic institutions of society to be governed by principles of justice."

family and relations between the sexes are not properly to be regarded as part of the subject matter of social justice." This unwarranted--patriarchal--assumption by Rawls yields an "internal paradox" (Okin 1989a, 249), sharply limiting the feminist potential of Rawls' thought until this "ambiguity" (Okin 1991, 181) is resolved.[9]

The communitarian feminist critique of Rawls indicts him not only for his distinction between private and public but also for espousing the very principles which yield that distinction. Feminists adopting this perspective share an opposition to what they perceive to be a narrow conception of human nature and experience, a conception inadequate for a full articulation of women's differences. Specifically, there are three communitarian feminist challenges to Rawls' liberalism: a critique of his abstract method; a critique of his stress on justice as opposed to empathy; and a critique of his notion of obligation as opposed to non-voluntarily constructed duties.[10]

Many feminists reject Rawls' abstract method, best exemplified by his veil of ignorance which requires the elimination of all individual, particular concerns motivating parties to the original agreement. For these feminists, Rawls' approach considers persons shorn of all actual,

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[9]For a similar argument see Green (1986).

[10]Grimshaw (1986, 203) delineates each of these three characteristics of what she calls a "female ethic." Baird (1994) also points to this three-prong characterization.

historical and social circumstances. They question the very possibility, and usefulness, of this sort of abstraction--Carole Pateman calls parties in the original position "disembodied entities of reason" (1989, 46)--and conclude that under the contract situation "sexually differentiated individuals have disappeared" (1988, 42).[11] Seyla Benhabib describes the relationship between abstract persons in the original position and actual, particular individuals in society as one between a "generalized other" and a "concrete other." The former, Rawls' "generalized other," mistakenly depicts persons as "disembedded and disembodied beings" (Benhabib 1987, 81). Abstracting from particular individuals with unique histories and positions, abstracting in essence from all that makes us human, disallows an understanding of difference. "Under conditions of the 'veil of ignorance' the other as different from the self, disappears.... Differences are not denied; they become irrelevant" (Benhabib 1987, 89). Benhabib recommends an alternative view of others--that of the concrete other. As concrete others, persons perceive one another as unique individuals and try to understand their differences. Rawls' distinction between private and public reflects his impoverished conception of the self. Rawls' politics, as such, ignores sexual differences, differences in needs, desires and perspectives. These needs "become 'private',

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[11]Matsuda (1986, 616) and Minow (1990, 154) arrive at the same conclusion.

nonformalizable, nonanalyzable and amorphous aspects of our conceptions of the good life" (Benhabib 1987, 94). Rawls' private-public distinction relegates consideration of concrete others to the private realm. Women, as women, disappear from politics.

Iris Young presents a similar critique of Rawls. She notes that Rawls employs a "social ontology that gives primacy to substance over relations" and "fails to appreciate that individual identities and capacities are in many respects themselves the products of social processes and relations" (1990, 27). That is, Rawls' veil abstracts from all human relationships, all the distinctive characteristics which make us human. Rather than capture a plurality of selves, the veil's monological character excludes discussion among moral subjects; behind the veil, any individual looks like, could be, any other individual. The veil eliminates any possibility of exploring differences, or analyzing relationships. Through this veil Rawls attempts to achieve impartiality, but actually merely masks--often coercive--relationships. Impartiality is necessarily elusive--and dangerous. "Reducing differences to unity means bringing them under a universal category, which requires expelling those aspects of the different things that do not fit the category" (Young 1990, 102).[12]

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[12]MacKinnon (1989, 162, 292) makes an even stronger case. "Formally, the state is male in that objectivity is its norm. Objectivity is liberal legalism's conception of itself."

She believes this drive toward impartiality results in two related problems. First, it allows Rawls to mistakenly focus on distributive justice. Because Rawls' method rules out any discussion of context, he understands social justice as tantamount to a simple distribution of "benefits and burdens among society's members" (Young 1990, 16). He elides the transformation of societal institutions--economic and familial--necessary to effectively combat oppression.[13] Second, Rawls' private-public distinction reiterates this stress on impartiality, and the reduction of justice to distribution. "Like impartial moral reason, this public realm attains its generality only by exclusion of particularity, desire, feeling and those aspects of life associated with the body" (Young 1990, 107).

Whereas Benhabib and Young oppose Rawls' universalizing intent, other communitarian feminists--maternal feminists[14]--contrast Rawls' paradigm of justice with an ethic of care, evident they argue in women's moral voices. Rawls' "contractual rationality" (Held 1987, 112) diminishes morality to mere

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[13]Young (1990, 27) notes that Rawls' inclusion of self-respect as a primary good appears to transcend mere distribution, but ultimately fails. "While Rawls does not speak of self-respect as something itself distributed, he does suggest that distributive arrangements provide the background conditions for self respect."

[14]Dietz (1987) identifies "maternalist feminism" as one feminist challenge to the liberal notion of citizenship.

bargaining--men jostling for limited goods.[15] Contractual justice models a relationship between mutually disinterested parties seeking to further their own ends through agreement. In contrast, women's lives, as mothers, reveals a distinctive ethic, a paradigm which integrates women's empathic insights as caregivers and nurturers. These feminists do not claim that all women are so giving; but, rather, that the possibilities built into the mother-child relationship shed light on a different standard of action, an alternative model of ethical judgment. This model demands that the actor evaluate the needs of the other person, as well as--or before--a consideration of how to maximize his or her own benefits.

Virginia Held, for example, recognizes that different standards of behavior operate in different types of relationships. She contends, however, that:

> relations between mothers and children as paradigmatic...may be an important stage to go through in reconstructing a view of human relationships that will be adequate from a feminist point of view. (1987, 115)

Rawls' principles elevate contractual justice, defining it as the paramount public voice, and relegating the ethic of care, women's voices, to the private realm. Held concludes:

> To continue to build morality on rational principles opposed to emotions and to include women among the rational will leave no one to reflect the promptings of the heart. To simply bring women

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[15]Hirschmann (1992, 259) remarks: "Indeed, in the original position justice arises only because people act defensively against the possibility that they will be worse off when the veil is lifted."

> into the public and male domain of the polis will leave no one to speak for the household. (Held 1993, 48)[16]

Finally, some feminist communitarians find Rawls' theory of obligation problematic. Contract theory which founds obligation upon consent fails to comprehend non-voluntarily acquired obligations. In particular, the veil of ignorance, which removes individuals from their context, cannot account for non-voluntary duties. In contrast, the maternal experience demonstrates that not all obligations are acquired through agreement; some duties are simply given. Rawls' emphasis on consent neglects the non-voluntary component of all obligations, ranging from the political to the maternal. To be sure, Rawls reintegrates non-voluntary obligations with his notion of natural duty--the duty to comply with just institutions. In this case, one's obligations derive from what one would agree to, what anyone would agree to, given Rawls' original position. Ultimately, however, this hypothetical construction creates obligation and coercion, without and regardless of actual consent. This "problematic construction of voluntarism" creates a situation where "voluntarism is largely hypothetical" (Hirschmann 1992, 93). As a result,

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[16]Ruddick (1989, 180) also explores what she calls a "maternal thinking" which "articulates an opposed and superior conception of conflict resolution rooted in a maternal view of relationships.... In this alternate conception, the ideal of equality is a mystifying phantom. Mothers are not equal to their children.... Differences in strength cannot be wished away.... Power relations are shifting and complex."

Rawls disguises coercion behind a facade of hypothetical and empty consent.

> Rawls...flounders in the attempt to reconcile the conflicting needs for individual choice and community and ends up binding people against their will through the elaborate construction of a falsely voluntaristic structure. (Hirschmann 1992, 94)

Rawls' voluntarism masks coercion, and in doing so, hides non-voluntarily acquired duties, most profoundly experienced by women in the family, in a liberal private sphere.[17]

In sum, Rawls' private-public distinction troubles both his liberal feminist and communitarian feminist critics. They perceive a reluctance on Rawls' part, manifest in this distinction, to address and rectify injustice in the family. Rawls' feminist critics point to a number of indications that the family is in fact private for Rawls--from the more superficial (the heads of family constraint) to the more profound (his perceived distinction between universal/particular, justice/care and obligation/duty). Contrary to these interpretations, I believe that Rawls' private-public distinction is both essential to his theory of justice, necessary as a preserve of individual integrity in and out of

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[17]Hirschmann (1992, 116) describes a "systematic sexism in modern obligation theory...which once again turns on the central assumptions of the public-private split. For the denial of the relevance to political obligation of the activities of the private sphere, such as child care, affective relations and productions and reproduction in all its variety, at least implicitly indicates a masculinist ontological and epistemological framework."

the family, and potent as a weapon against patriarchy, against patterns of domination in the family.

Rawls' Liberal Response

Feminist critics of Rawls argue that his promise of freedom and equality is empty unless he responds to substantive inequality within the family. They extend their earlier critiques of Locke's and Mill's liberalism, contending that liberalism's masculine bias, expressed in its private-public distinction, masks private, familial coercion with a facade of formal equality. In fact, Rawls shares the feminist concern for the substantive bases--material and social--of liberty. He agrees that "Locke's doctrine improperly subjects the social relationships of moral persons to historical and social contingencies that are extended to, and eventually undermine, their freedom and equality" (PL, 287).[18] Like Locke, Rawls hopes to protect individual liberty by defining the legitimate scope of political intervention, by disclosing the fair terms of cooperation.[19] More profoundly than Locke, however, Rawls

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[18]Rawls continues, "The constraints that Locke imposes on the as-if historical process are not strong enough to characterize a conception of background justice acceptable to free and equal moral persons" (PL, 287).

[19]Rawls asks, "When may citizens by their vote properly exercise their coercive political power over one another when fundamental questions are at stake? Or in light of what principles and ideals must we exercise that power if our doing so is to be justifiable to others as free and equal?" (PL, 217).

understands that individual liberty also demands an attention to social and economic conditions.

Rawls' political philosophy uncovers the repercussions of understanding persons as "self-authenticating sources of valid claims."[20] This phrase captures the essence of the liberal tradition, the theme which echoes from Locke and Mill to Rawls: persons as distinct beings--free and equal. For liberals from Locke to Rawls, the distinction between private and public blends a belief in the integrity of the individual with the need for, and joy in, community. In particular, Rawls' distinction between private and public elucidates the fair terms of cooperation among persons and associations with diverse characters and ends.

The central concern for feminists involves the location of the family in Rawls' political thought. They ask: is the family private for Rawls, an expression of rationally pursued individual goods and, as such, beyond public intervention? Or is it public, thereby subject to reasonable principles of justice? At times Rawls treats the family as public, identifying it within the basic structure (see TJ, 7; PL, 258). At others, he characterizes the family as private, operating according to affectionate, rather than coercive principles (see PL, 137). Some feminists point to this two-dimensional

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[20]Mosher (1991, 289-290) identifies "two fundamental intuitions" in Rawls' work: "persons are separate" and "luck cannot be a morally defensible basis for distributive outcomes." These intuitions flow from the notion of "self-authenticating" persons.

nature of the family as an apparent "ambiguity" (Okin 1991, 181) or "internal paradox" (Okin 1989a, 108) in Rawls' thought. Okin (1989b, 231) perceives a "tension within the theory." In contrast, I argue that this two-dimensional treatment reflects the dual nature of families themselves. Family life correctly understood belongs both in the public basic structure (a realm subject to the principles of justice) and to the non-public sphere of associations.[21] On one hand, families operate as one of the most persistent barriers to fair equality of opportunity (TJ, 74, 301, 511). On the other, free individuals express and form themselves within the confines of the family unit (TJ, 462-469). Families are both private and public. Rawls' liberal paradigm reflects this complexity inherent in family life, and offers a strategy for addressing both the private and public aspects of family life, for combating patriarchy while preserving the familial choice and expression.

Rawls' distinction between the reasonable and the rational, the right and the good, clarifies his understanding of public and private. The reasonable connotes those ends

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[21]At one point, Rawls recognizes the family as distinct from both the political and associational. "The political is distinct from the associational, which is voluntary in ways that the political is not; it is also distinct from the personal and the familial, which are affectional, again in ways the political is not" (PL, 137). For my purposes, families intersect with both the private and public realm, acting both as part of the basic structure and the broader associations. This does not deny that family life maintains a peculiar, affectionate character.

societies pursue as necessary to common life (e.g., cooperation). The rational designates those goods individuals and associations seek as a result of independent choice and free will.[22] As persons with both reasonable and rational powers, with both a sense of justice and an awareness of distinct and sometimes conflicting personal and associational ends, each individual acts as both a citizen and a man or woman (PL, 19-20, 29-35). As citizens, individuals exercise a sense of justice which is articulated and clarified by the device of representation known as the original position. As free and equal persons, each follows independent personal and associational goals. In this way, the reasonable constrains the rational, citizenship constrains personhood. This is the meaning of Rawls' claim that the right is prior to the good.[23] As such, individuals pursue their life within fair terms of cooperation, realizing their ends within a space which allows for equal self-development in others.[24] "In

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[22]Rawls (PL, 49-50) specifically recognizes the difference. "The reasonable is an element of the idea of society as a system of fair cooperation and that its fair terms be reasonable for all to accept is part of its idea of reciprocity.... The rational is, however, a distinct idea from the reasonable and applies to a single, unified agent (either an individual or corporate person) with the powers of judgment and deliberation in seeking ends and interests peculiarly its own."

[23]Mendus (1989, 119) notes that public and private in Rawls corresponds with the right and the good.

[24]Rawls explains, "the right and the good are complimentary: no conception of justice can draw entirely upon one or the other, but must combine both in a definite way" (PL, 173).

justice as fairness the priority of right means that the principles of political justice impose limits on permissible ways of life" (PL, 174). Justice as fairness draws those limits in such a way as to allow the greatest possible freedom for self-development and diversity. Rawls (PL, 174) concludes, "A political conception of justice must contain within itself sufficient space...for such ways of life."

Rawls' basic structure, the non-voluntary social institutions which shape life possibilities,[25] falls within the domain of the reasonable and public; fair terms of cooperation demand that these coercive social institutions abide by the principles of justice. "The basic structure is the primary subject of justice because its effects are so profound and present from the start" (TJ, 7). Clearly, by this definition, the family belongs in the basic structure. Rawls (PL, 258) recognizes this, in his most recent book, noting that the major social institutions of the basic structure

> assign fundamental rights and duties and shape the division of advantages that arise through social cooperation. Thus the political constitution, the legally recognized forms of property, and the organization of the economy, and the nature of the family, all belong in the basic structure.[26]

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[25]See TJ, 8 for Rawls' comparison between the basic structure and other "voluntary cooperative arrangements."

[26]It should be noted that at other points Rawls fails to include the family in the basic structure--unless he does so with the nebulous term "social institutions." Earlier in Political Liberalism Rawls writes, "By the basic structure I mean a society's main political, social, and economic institutions" (PL, 11). Okin (1989, 49) reads passages similar to this to indicate an ambiguity in Rawls' thought. I argue that

This reinforces Rawls' placement of the family in the basic structure in A Theory of Justice (TJ, 7).

While the basic structure expresses our reasonable, public selves, particular associations manifest our private, or more correctly, non-public selves.[27] In non-public spheres, persons realize disparate rational goods. Persons express themselves in a variety of associational contexts, often shifting membership and alliances, choosing values appropriate to their unique ends. Persons work out their identities within various associations, learning about themselves and confirming their value, trying on different roles and goals.[28] Associations encourage self-development and affirm self-respect, providing an environment where the individual's contributions are recognized and appreciated (see, in particular TJ, 441; PL, 41-43). As Roberto Alejandro (1993, 77) argues, "associations socialize individuals into

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the in-out relationship between the family and basic structure is actually a product of a complexity internal to the family itself.

[27]See PL, 220-221 for Rawls' description of non-public reason and power.

[28]Rawls explains: "In a democratic society non-public power, as seen, for example, in the authority of churches over members, is freely accepted.... Whatever comprehensive religious, philosophical, or moral views we hold are also freely accepted, politically speaking, for given liberty of conscience and freedom of thought, we impose any such doctrine on ourselves. By this I do not mean, apart from all prior loyalties and commitments, attachments and affections. I mean that, as free and equal citizens, whether we affirm these views is regarded as within our political competence specified by basic constitutional rights and liberties" (PL, 221-111).

the principles of trust and friendship, strengthen the individual's self-esteem, and provide a 'secure basis' for the worth of members." Associations vividly teach individuals about reciprocity and mutuality, the foundation of a sense of justice. In this regard, families are also associations;[29] within the family, members learn about "moral standards appropriate to the individual's role," experience the exercise of "certain rights and duties" (TJ, 467) and acquire an ability "to view things from a greater multiplicity of perspectives" (TJ, 469).

Rawls' paradigm integrates both the private and public, reasonable and rational, coercive and affectionate aspects of family life, with the reasonable constraining the rational; the public framing the private. As such, the public, reasonable aspects of the family provides space within which the private aspects flourish; the public dimension of the family limits and protects the private dimension.[30] More specifically, when the family enters the circumstances of justice (see Tomasi 1991, 523; Kymlicka 1989, 113), the principles of justice hold; when affection and commonality exist, justice steps back. When one partner abuses another (e.g., rape),

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[29]Kearns (1983, 40) asserts that "the family is explicitly considered to be a small association." See, in particular, TJ, 467.

[30]"Political values normally outweigh whatever other values oppose them, at least under the reasonable conditions that make a constitutional democracy possible" (PL, 155). See also, TJ, 425.

justice must prevail. After all, love transcends justice, but justice founds love. (See TJ, 464, 129.)

Families operate according to values which differ from political values.[31] Rawls, (PL, 10) then,

> does not deny there being other values that apply, say, to the personal, the familial, and the associational, nor does it say that political values are separate from, or discontinuous with, other values.

But, when the values of the family break down, when affection and common interests no longer move its members, the circumstances of justice exist and the principles of justice take hold. Two features characterize the circumstances of justice for Rawls: mutual disinterest and distinct, often conflicting, ends (Tomasi 1991, 523).[32] Thus, when the family acts out of love, affection or mutual interest, the circumstances of justice are not present. But when coercion replaces affection, when domination exploits compassion, justice supplies redress.

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[31]Rawls elaborates on the distinct purposes of different social institutions, "But it is the distinct purposes and roles of the parts of the social structure, and how they fit together, that explains there being different principles for distinct kinds of subjects. Indeed, it seems natural to suppose that the distinctive character and autonomy of the various elements of society requires that, within some sphere, they act from their own principles designed to fit their peculiar nature" (PL, 262).

[32]Rawls explains, "the circumstances of justice obtain whenever mutually disinterested persons put forward conflicting claims to the division of social advantages under conditions of moderate scarcity. Unless these circumstances existed there would be no occasion for the virtue of justice" (TJ, 128).

Like Mill's standard of harm, Rawls' circumstances of justice allows a society to systematically decide which aspects of a social institution are public and which are private. In this way, both thinkers recognize a multitude of spheres of activities, first identified by Locke, which possess both private and public dimensions. Rawls enriches Mill's standard by incorporating a standard which explicitly recognizes coercive or oppressive circumstances which might not, in some interpretations, clearly fall into the category of harm.

Actually, Rawls' principles supply a two-prong attack against patriarchy. He seeks both to provide background conditions conducive to justice in the family and to empower the oppressed to combat their subordination and create just social institutions. To begin, his principles of justice create background conditions which expand choices and opportunities outside the family.[33] These principles, illuminated through the agreement reached in the original position, embody the fair terms of cooperation and apply to the basic structure of society.

> A. Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all, and in the scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
>
> B. Social and economic equalities are to satisfy two conditions: first, they are to be attached to

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[33]Okin (1989a, 93, 175-176) makes exactly this point.

> positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be the greatest benefit of the least advantaged members of society. (PL, 5-6)

Rawls' distinction between liberty and the worth of liberty clarifies this relationship between the two principles. The first guarantees formal equality (liberty); the second provides substantive equality, the resources necessary to exercise those liberties (worth of liberty).

While the difference principle (the second principle) addresses social and economic inequities, natural inequalities remain. Trying to equalize natural assets would demand far too harsh a breach of personal integrity and destroy human diversity. Rawls does not seek to level human excellence, but to actualize conditions in which all have the opportunity for such excellence.[34]

> The aim, however, is not to eliminate contingencies from social life, for some contingencies are inevitable. Thus even if an equal distribution of natural assets seemed more in keeping with the equality of free persons, the question of redistributing those assets (were this conceivable) does not arise, since it is incompatible with the integrity of the person. (PL, 283)

In this way, Rawls maintains variety among persons while ameliorating the social repercussions of those differences. He celebrates the differences among persons while disallowing the oppressive social and economic structures which might

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[34]This echoes Mill's intent. As Mill sought to protect human excellence from cultural mediocrity by sheltering each person from oppressive social tyranny, Rawls strives to advance the full flowering of individuality by eliminating oppressive economic tyranny.

exploit those differences. Women don't have to become like men, adopt traditionally male characters (the greatest fear of some feminists),[35] to claim equal recognition or equal access.

Rawls' principles of justice furnish space and resources for many life choices. Differences as well as similarities bring people together. Because "the self is realized in the activities of many selves" (TJ, 565), Rawls promotes diversity among persons. Indeed it is the differences between men and women, between any individuals, which brings them together:

> The range of realized abilities of a single individual of the species is not in general materially less than the potentialities of others similar to it. The striking exception is the difference of sex. This is perhaps why sexual affinity is the most obvious example of the need of individuals both human and animal for each other. (TJ, 525)

It is the differences between men and women which the difference principle both protects and mitigates. By alleviating the social and economic repercussions of gender, the difference principle allows free, chosen expressions of sexual character. Social and economic oppression no longer enforces sex roles.

Rawls (TJ, 511) argues that "the acknowledgment of the difference principle redefines the grounds for social inequalities," empowering the oppressed, expanding options for escape. Rawls' principle of fair equality of opportunity

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[35]Those I have called maternal feminists particularly oppose the traditionally-defined male character as a standard of behavior. See, among others, Held (1993); Ruddick (1989).

demands that substantive access to a variety of social and economic positions no longer be tied to one's circumstances in the family as either a husband or wife, father or mother. This requires a dramatic change in employment practices, from adequate (government subsidized?) daycare to flextime and parental leave policies (see Okin 1989a, 175-176). To the extent that prejudice and oppression inhibit women's life chances, societal inequities must be structured so as to favor women. To the extent that some persons are disadvantaged, the difference principle dictates that any inequalities in society or the economy favor those least advantaged persons. To the extent that women bear a heavier burden at home, the society and the economy distribute benefits as to favor them.[36] Rawls' concern for the worth of liberty insures that entrance into a marriage results from true autonomous choice, and also permits a negotiation of the sexual division of labor on equal terms.

Rawls' liberal principles also furnish the tools for a transformation within the family. As the reasonable constrains the rational, justice supplies a fallback (Waldron 1988, 647) when affection fails. As such, marital partners

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[36]Noting the family as a barrier to equal opportunity, Rawls asks, "Is the family to be abolished then? Taken by itself and given a certain primacy, the idea of equal opportunity inclines in this direction. But within the context of the theory of justice as a whole, there is much less urgency to take this course. The acknowledgment of the difference principle redefines the grounds for social inequalities...." (TJ, 511).

understand their choices, their rights and obligations. Although one partner may voluntarily withhold a just claim, each partner recognizes the options available to the other.[37] In such an environment, genuine marriages of affection and reciprocity flourish, marriages built on coercion and domination collapse (Tomasi 1991, 525-528). Affection may induce one partner to withhold a claim, to take on a task which justly might be one's spouses, but unreciprocated affection soon dies. Both partners, as equal contracting members, recognize the essential give and take to the marriage, now that choice truly exists.

Genuine choice also allows a variety of marital arrangements to surface. Although in A Theory of Justice Rawls more narrowly refers to the monogamous family as part of the basic structure (TJ, 7), he corrected this limited definition in later works (PL, 258). True choice provides space within which individuals assume a variety of familial and sexual roles. This choice undermines both a sexually prescribed division of labor in the home and any heterosexist definition of family life.

Two contractual relationships actually animate the family, the marital and parental. In both cases, the

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[37]Tomasi (1991) points out the distinction between possessing a right and exercising a right. Each individual may possess many rights which they fail to exercise, which they withhold, for a variety of reasons. A person's right to vote, participate in government, divorce, etc. does not imply that one must exercise all those rights.

contractual aspect of the relationship lays the groundwork for genuine affection between marriage partners or parents and children. In the marriage relationship, here understood as interactions between adult members (usually two) in the family, each partner recognizes the other as a possessor of rights. This recognition of the other's rights underlies the self-respect upon which genuine love builds.[38] As persons cannot be bound to tyrannical governments, marriage partners cannot be tied to patriarchal marriages.

> By the principle of fairness it is not possible to be bound to unjust institutions or at least to institutions which exceed the limits of tolerable injustice. (TJ, 112)

Choice preserves the integrity of the marriage contract. In this contract, we assume certain obligations while accepting certain benefits (TJ, 113). Love and affection build on the base provided by the marriage contract and the justice that contract implies. The problem becomes one of distinguishing domination from love, coercion from affection. Rawls offers a test for distinguishing justice from oppression, affection from exploitation: the veil of ignorance (Hampton 1993, 240-244). The veil asks each partner to consider if the terms of the relationship would be acceptable if he or she were acting as a representative for the other person. Would the terms of the relationship be acceptable to a representative free of coercive influences, and lacking foresight into

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[38]Kymlicka (1989, 123-125) notes the compatibility between love and rights.

which position he/she inhabits? That is, is the relationship fair from either position? From this perspective, even the exploited will recognize exploitation. Affection would pass this test, oppression would not.[39]

Obviously, real choice demands the option of exit. Either partner can appeal to the principles of justice when coercion replaces affection. This right to exit follows the dictates of the contract, the principles of justice. So divorce law follows the three principles of justice, first establishing equal liberty, second, providing fair equality of opportunity, third, enhancing the possibilities of the least advantaged. This means that current divorce laws, for example, which allow women to disproportionately bear the burden of exit, in which a woman's standard of living drops by 73% while the man's rises by 42%, would not satisfy these principles of justice.[40] Divorce law needs to be formulated so as to protect and enhance the prospects, the possibilities of self-development, of the most disadvantaged.

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[39]Hampton (1993, 240, 244) describes, "in a successful contractarian theory the contract is a (mere) device that, if used in the right circumstances, will call to mind and organize these concepts in a way that will enable us to apply them to diagnose successfully the presence of injustice in a relationship." According to Hampton, it asks, "Could all of us reasonably accept this if it were proposed as the subject of unforced, informed agreement?"

[40]Okin cites these statistics (1989b, 161). She does not directly apply them to Rawls' principles of justice, but does firmly believe that those principles would condemn any such situation (see, in particular, 1989, 174).

Contract theory also illuminates the parental relationship, again providing a foundation for true parental nurturance and affection. In this respect, it asks the parent to determine whether the standards of parental rule would be acceptable from the child's perspective. Would a representative, lacking knowledge of one's position as parent or child, find the terms of this relationship acceptable? Rawls concludes,

> We must choose for others as we have reason to believe they would choose for themselves if they were at the age of reason and deciding rationally.... From the perspective of the original position, he must assume that this is what they will come to recognize as for their good. (TJ, 209; see also, TJ, 248-249, 509)

This test distinguishes abuse from discipline, exploitation from affection.

This test also allows the latitude necessary for the family to fulfill its unique function as the first school of moral development, of justice. Within the family children should learn reciprocity (Alford 1991, 151), empathy, obligation and love. In the end, children learn that right subordinates authority (see TJ, 467), that justice limits even parents--a valuable lesson to learn if persons are to recognize and condemn oppression wherever it surfaces. Eventually the reciprocity experienced in the family extends to include individuals outside the family, in broader associations and society as a whole. Persons apprehend perspectives beyond their own, an ability fundamental to a sense of justice.

In the economy, like the family, Rawls provides the tools of transformation, while maintaining a sensitivity to culture and tradition. His first concern remains with autonomy, as demonstrated by his primary ranking of the liberty principle;[41] once this concern is met considerations of efficiency, incentives, and historical circumstances arise.

> The question of private property in the means of production or their social ownership and similar questions are not settled at the level of the first principles of justice, but depend upon the traditions and social institutions of a country and its particular problems and historical circumstances. (PL, 338)

In other words, as long as the economic structure satisfies the principles of justice, peculiar circumstances determine the complexion of the economy. In all cases, however, the liberty principle compels the economy to create "a sufficient material basis for a sense of personal independence and self-respect" (PL, 298). If this basis cannot be generated within a capitalist society, if the power relationships integral to private ownership of the means of production are too strong, than the liberty principle disallows this economic arrangement.

Rawls believes that these conditions can be met within a modified capitalist economy. The primary good of self-respect, however, plays a central role in adjudicating between different economic regimes. Primary goods are those resources

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[41]See Gutmann (1989, 339) for a discussion of the principles of justice as relates to economic liberties.

all individuals would desire to possess whatever their ends. As such, they serve as a measure of the efficacy of the principles of justice.

> We stipulate that the parties evaluate the available principles by estimating how well they secure the primary goods essential to realize the higher-order interests of the person for whom each acts as a trustee. (PL, 75)

Primary goods, essential to self-development (Beatty 1983, 488), are distributed in terms of the principles of justice. Furthermore, the resources necessary to self-respect are also distributed equitably, unless an inequality advances the interests of the worst off. In this light, Rawls' difference principle distributes productive assets as well as acquisitive assets, at least to the extent that the former contributes (or diminishes) self-respect.[42] All of this demonstrates Rawls' overriding attention to the formation of an economic sphere in which women and men participate free from coercion.

In sum, Rawls persistently confronts the barriers to equal liberty, wherever they surface. His treatment of the family demonstrates both his overriding concern for justice and his regard for the freedom and integrity inherent to the family unit. When Rawls asks, "Is the family to be

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[42]See Kymlicka (1989, 111) for an argument that Rawls' principles also address productive assets, despite Rawls own proclivity to speak more narrowly in terms of income redistribution. See, also, Schwarzenbach (1987, 143) for a thoughtful discussion of the relationship between primary goods and self development, self respect and allocative assets. Schwarzenbach identifies an "acquisitive" and "purposeful" conception of the self which lays behind Rawls economic conclusions.

abolished?" (TJ, 511), he recognizes the family as an oppressive social institution. His answer illustrates an understanding of another value to family life which transcends patriarchy, an understanding of the family's role as a reservoir for affection, intimacy and personal freedom. His answer provides the tools for a transformation of family life, for an attack on patriarchy, without obliterating the family altogether, without crushing the private dimension of family relationships. His answer discerns the family as both a reasonable and rational entity. As such, the family must be both subject to the demands of justice and be allowed to move beyond those demands to genuine affection. As we have seen, Rawls' delineation of the circumstances of justice, and his use of the original position (as applied to the family), achieves exactly this end.

Liberal Feminists and Communitarian Feminists: A Reply

Feminist criticism of Rawls primarily arises from the view that his private-public distinction prohibits an effective attack on patriarchy. Liberal feminists challenge Rawls' perceived reluctance to apply the principles of justice directly to the family, attributing this to a remnant of patriarchal bias on Rawls' part. They contend that to the extent that Rawls implicitly accepts a disturbing assumption that the family is inherently private, he fails to engage patriarchy at its origin.

In contrast, I have argued that Rawls understands the family as both private and public, rational and reasonable. He illustrates the family as operating both in the basic structure and as an association. Integrating both facets of modern family life, his liberal paradigm provides an avenue which challenges familial patriarchy, while protecting an opportunity for genuine, self-originating, community. When the circumstances of justice prevail, the family is understood as public and the principles of justice apply. When the circumstances of association prevail, when a true mutuality of ends and desires exist, justice remains in the background.

Rawls' failure to specifically and explicitly expose the repercussions of the principles of justice for the family results not from a patriarchal bias, but rather from a choice of focus. Rawls hopes to elucidate a small number of concepts which, by extension, can be specifically applied to an ever greater range of social institutions and practices. Rawls assumes the family is just only in order to expose the broader societal principles of justice; once these are discerned, one can convert them for use in more complex cases--like the family. Rawls assumes the family is just only in order to hold it constant, for the moment, in order to explore more general questions of justice. In his view,

> A constructivist doctrine proceeds by taking up a series of subjects, starting say with principles of political justice for the basic structure of a closed and a self-contained democratic society. That done...the constructivist procedure is modified to fit the subject in question. In due course

> all the main principles are on hand, including those needed for the various political duties and obligations of individuals and associations. (Rawls 1993, 39)

With this method, Rawls apprehends both the special nature of the family unit and the relevance of justice to that same family unit (see Rawls 1993, 40).

As early as A Theory of Justice Rawls discloses the limited scope of his project, confessing that he makes no attempt to address virtues, other than justice, in a systematic way (TJ, 17). In this regard, the family presents a particularly complicated picture, blending important private virtues with the virtue of justice. As such, Rawls puts the question of justice in the family aside for the moment, concentrating on constructing a paradigm which at a later stage may be appropriately extended to the family.[43] Rawls reiterates his intent in Political Liberalism: "I believe also, though I do not try to show in these lectures, that the alleged difficulties in discussing problems of gender and the family can be overcome" (PL, xxix).

In Rawls' words, he concentrates on ideal theory in which "everyone is presumed to act justly and to do his part in upholding just institutions" (TJ, 8); for our purposes, he assumes the family acts justly. By doing so, he:

> presents a conception of a just society that we are to achieve if we can. Existing institutions are to

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[43]Rawls explains, "Of course, in a broader inquiry the institution of the family might be questioned and other arrangements might indeed prove to be preferable" (TJ, 413).

> be judged in light of this conception and held to be unjust to the extent that they depart from it without sufficient reason. (TJ, 246; see also TJ, 391; PL, 285)

So, non-ideal theory builds upon ideal theory, pointing to the discrepancies revealed by ideal theory, suggesting remedies, applying the principles of justice to specific cases. Rawls tells the reader that his first concern involves ideal theory, non-ideal theory will flow from this.

Unlike the liberal feminist reading of Rawls, the communitarian feminists find Rawls' principles to be inextricably implicated in patriarchy. These feminists challenge three fundamental components of Rawls' theory: his perceived distinctions between universals and particulars, justice and care, and obligation and duty. Far from ignoring particulars, however, Rawls' political philosophy presents an opportunity for a full consideration of others, their unique circumstances and relationships. Both Rawls' A Theory of Justice and Political Liberalism begin as a defense of unique and separate persons. In the former, he takes utilitarianism to task for inadequately protecting individual ends, concluding that "utilitarianism does not take seriously the distinction between persons" (TJ, 27). Political Liberalism pursues this agenda; here Rawls accounts for the intractability of pluralism, which necessarily results from conceiving of persons as distinct, free and equal--as liberal.

> Our individual and associative points of view, intellectual affinities, and affective attachments, are too diverse, especially in a free society, to

> enable those doctrines to serve as the basis of lasting and reasoned political agreement. (PL, 58)

Political Liberalism accounts for what Rawls calls burdens of judgment. That is, given the reality of the human experience, competing claims, distinct persons, difficult choices, lasting unanimity remains an elusive--and dangerous--goal.[44] Persons inevitably differ in beliefs, perspectives and desires. Rawls recognizes "the burdens of justice as limiting what can be justified to others" (PL, 81); the burdens of judgment require pluralism.

Diversity necessitates a political framework which apprehends the fair terms of cooperation among persons with varying life plans.[45] Rather than erase differences, Rawls celebrates them, providing space for a variety of persons, conceptions of the good and of the good life. Rawls does this by discerning the common ground upon which we all stand, by delineating the breadth of that common ground and the variety it accommodates. This is the aim of his original position which models the liberal conception of separate persons working out a fair and reasonable agreement for life together. In order for the agreement to be fair it must not be biased by

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[44]PL, 56-57, details an incomplete list of the sources of the burdens of judgement. These range from the conflicting nature of evidence to differing personal and institutional perspectives.

[45]"Justice as fairness works from the fundamental ideas of society as a fair system of cooperation together with the conception of the person as free and equal" (PL, 167). See also Kukathas and Pettit (1990, 135-139) for their discussion of diversity and stability in Rawls' thought.

the arbitrary natural and social position of the parties to the agreement. No one can be allowed to favor one's own interests in this agreement. "Each is forced to choose for everyone" (TJ, 140); each is forced to consider the benefit of every, and any, other party to the agreement.[46] Far from ignoring particulars, Rawls' veil of ignorance presents an opportunity for a full consideration of others, their unique circumstances and relationships. Rather than abstract from differences, it encourages parties to consider differences by releasing them from enslavement to personal desires and circumstances (see Okin 1989a). Allowing insight into the multiple dimensions of various familial and economic relationships, Rawls provides the tools for a revolution of those same relationships.

Social unity connotes the balancing of various elements, not the reduction of different parts to one abstract whole. As such, the original position incorporates a notion of persons as rational and reasonable, as possessing two moral powers: a rational capacity to pursue instrumental, often competing individual and associational ends, and a reasonable capacity to frame social structures so as to constitute fair cooperation. The original position mirrors these rational and reasonable moral powers: the rational aspects of the person

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[46]Okin (1989b, 231-244) forcefully and effectively makes this point. As Okin notes, Rawls' use of rational choice theory undermines this aspect of the veil of ignorance. Rawls pulls back from rational choice theory language in Political Liberalism.

are reflected in the purposes of the agreement itself. That is, the parties in the original position further the particular interests of the person they represent. The reasonable aspects are reflected in the constraints essential to the original position, in the restrictions on knowledge of personal, natural and social positions which induce parties to consider fair terms of agreement and compels them to consider justice (see PL, 305). Thus, the original position serves as a device of representation, not as a depiction of abstract or atomistic persons.[47] It allows "reflective detachment" (Macedo 1990, 245) which blends individual ends with social responsibilities.

Considered convictions underlie the original position which both expresses our liberal intuitions of freedom and equality, and serves as a measure of the coherence of our conclusions.[48] We use the original position to expose the implications of our liberal intuitions and, just as

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[47]"As a device of representation the idea of the original position serves as a means of public reflection and self-clarification. It helps us work out what we now think, once we are able to take a clear and uncluttered view of what justice requires when society is conceived as a scheme of cooperation between free and equal citizens" (PL, 26). See also PL, 27-28. Here Rawls contends that although it may appear as though "the essential nature of persons is independent of and prior to their contingent attributes, including their final ends and attachments" actually this is an "illusion," a function of the original position acting as a device of representation.

[48]In my reading "considered convictions," in A Theory of Justice correspond with "liberal intuitions" in Political Liberalism.

importantly, to test those convictions and the viability of the original position and its constraints. Rawls explains:

> By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium. (TJ, 20)

This method demonstrates the sensitivity to context of his theory of justice. Rawls does not, nor did he ever, claim to elucidate universal principles to be imposed, haphazardly, on unique political circumstances; as he stresses in Political Liberalism, "We start...by looking to the public culture itself as the shared fund of implicitly recognized basic ideas and principles." He concludes by "saying that a political conception of justice, to be acceptable, must accord with our considered convictions" (PL, 8).

Whereas some feminists misread in Rawls' thought an opposition between the universal and the particular, other feminists incorrectly locate a dichotomy between justice and care. This perceived opposition actually denotes an integration of both perspectives. As my analysis of marriage demonstrates, rather than denying the possibility of care, Rawls' presentation of justice lays the foundation for genuine, non-exploitative care. Rather than reducing all relationships to their contractual components, Rawls articulates the terms of a fair relationship, the foundation of true

affection. In this light, justice complements rather than opposes care.[49] Rawls states this vividly when he concludes that "the sense of justice is continuous with the love of mankind" (TJ, 476).

Finally, the alleged opposition between obligation and duty in Rawls also results from a misperception. Feminist critics have mistakenly located a dichotomy between voluntary and non-voluntary relationships in Rawls' treatment of obligation and duty. Rawls' aim, however, is to draw out the voluntary components of potentially coercive social structures. For example, it is because "political power is always coercive power backed by the government's use of sanctions" (PL, 136) that constructs such as the original position are necessary to elucidate the voluntary dimension of that relationship, the fair terms of cooperation. Similarly, because family duties are given, the same device of representation defines fair terms of cooperation in that relationship, thereby enhancing the voluntary component, choice, in the familial sphere. Duties do not oppose obligations; they blend together to form a complex matrix of human relationships, to some of which justice is pertinent (see TJ, 115-116).

In sum, the communitarian feminist critique of Rawls incorrectly interprets Rawls' intent and conclusions. In criticizing Rawls on these bases, they overlook the avenue

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[49]Hampton (1993) and Kymlicka (1990a, 275) both point this out.

available in Rawls' thought for identifying domination regardless of its acceptance by both the oppressed and oppressor. Feminists have long argued that patriarchy is pervasive across, and within, cultures. Patriarchy constitutes one of the best examples of a form of oppression for which, at times, both the oppressor and oppressed have offered support. Witness some women's historical support of foot binding or, for that matter, high heels. In such an atmosphere of oppression less articulate or unspoken perspectives are often lost. Rawls' method provides a strategy for articulating a perspective which an actual participant in the oppression fails to comprehend. Sometimes justice must reach beyond the perspective of the "concrete other" (Benhabib 1987) to voice an impartial condemnation of an accepted oppression. Rawls' original position does exactly this.[50] He reaches

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[50]Some scholars of Rawls' work argue that his later writings represent a retreat from this liberating vision (see, for example, Klosko 1993). In contrast, Kukathas and Pettit (1990) identify the shift in Rawls' writings as one of emphasis, from desirability to feasibility. In this interpretation, A Theory of Justice portrays the desirability of the terms of cooperation; Political Liberalism demonstrates the feasibility of terms of cooperation. Rawls, in his most recent article "The Law of Peoples" (1993, 38) grapples with the extension of the principles of justice to foreign policy. Here he "indicates the role of human rights as part of a reasonable law of peoples." Rawls argues this because "In the absence of this extension to the law of peoples, a liberal conception of political justice would appear to be historicist and apply only to societies whose political institutions and culture are liberal. In making this case for justice as fairness, and for similar, more general liberal conceptions, it is essential to show that this is not so" (my emphasis). Whatever one's interpretation, however, Rawls never denies the possibility of a growing appeal and acceptance of what he calls "liberal intuitions." (For a persuasive argument along

beyond often oppressive community values to create a picture of just relationships, to delineate the fair terms of cooperation.

In conclusion, Rawls' liberal principles contain the potential for critically exposing and denouncing women's oppression, regardless of the context. Rawls' principles of justice protect individuals, their right for self-development, while enhancing the possibility of just, chosen communities and relationships. Rawls' principles of justice blend an understanding of persons as constituted by historical and cultural circumstances with a perception into the "self-authenticating" dimension of personhood. As such, Rawls supports liberal individual liberty with the substantive means to exercise that liberty. He provides the tools, the primary goods, necessary for the realization of women's liberty.

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these lines, see Schwarzenbach 1991, 549.)

CHAPTER V

CONCLUSION: LIBERALISM AND FEMINISM: ARE THE TWO MUTUALLY EXCLUSIVE?

Four related claims emerge from these chapters. First, anti-liberal feminists have generally misread liberal theory. By focusing on a particular theorist's contingent claims, these feminists overlook the deeper, valuable principles animating liberal theory. Second, as a result, they have failed to grasp the enormous potential of liberalism for women's empowerment. Liberalism presents an ideal which applies to women as well as men; despite feminist assertions to the contrary, liberalism supports and strengthens women's quest for equality. Third, liberalism can fully accommodate feminism, indeed providing full theoretical support for many of the alternatives feminists provide. Finally, to the extent that feminists abandon liberalism, they imperil their own project. The essential feature of liberalism is the identification of private spheres of activities within which individuality is developed and expressed. Liberalism represents the only movement in political philosophy which founds and sustains a systematic defense of the individual based in a distinction between private and public activities. In

rejecting liberalism, some feminism lose the protection it offers the individual.

Feminist, have generally, misread the potential and intent of particular liberal thinkers. Locke, for example, differentiates between private and public in an attempt to protect the individual from the arbitrary use of state power. He limits the scope of political power, while basing legitimate political authority on consent. Distinguishing paternal power from political power to ensure the adult status of liberal citizens, Locke disarms tyrannies which would rob persons of the freedom of action compatible with the capacity for reason. Feminists who narrowly interpret Locke's distinction to privilege self-interested reason over compassion, man over woman, politics over family, overlook and distort both the intent and potential built into this early liberal expression.

In distinguishing political relationships from parental, marital, economic, and religious relationships, Locke expresses a liberal understanding of individuals acting in a variety of spheres. Liberalism, as it began with Locke and continued with Mill and Rawls, has always been about creating a community of communities, uniting complex persons and diverse people in a cooperative, stable society. Locke explores the relation between political liberty and familial, economic and religious ends, differentiating between each in order to secure each. Still, he never portrays these spheres as entirely separate,

dichotomous, or reified. Rather he provides a framework which assimilates the unique character of each sphere with a rudimentary understanding of the interdependence and interaction between spheres. More specifically, Locke locates the differing purposes of families and politics, while implicitly recognizing the role government plays in protecting life, liberty and property, even within families. Moreover, he explicitly incorporates the role of families in nurturing liberal citizens, in supplying the requisite background conditions of a liberal political system.

Mill pursues the liberal project of expanding individual choice by protecting the individual from another threat--the majority. He identifies a tyranny as great, or greater, than political tyranny and distinguishes between private and public in an attempt to protect the individual from the stunting, pervasive whims of a social tyranny. To this end, he elaborates a standard of harm which distinguishes areas of individual concern from legitimate community interests, while offering a standard of privacy to which both men and women can appeal. Feminists who construe this private-public distinction to celebrate abstract reason over emotion misunderstand Mill's project. Alternatively, feminists who deny the efficacy of Mill's liberal principles in the battle against coercive familial and economic control mistake the extent to which this standard protects women from harm, wherever it surfaces.

Mill's use of the concept of harm to distinguish private from public concerns manifests a keener sense of the private bases of public power than apparent in Locke's thought. In Mill's view private is not distinguished from public simply in terms of spheres and their purposes, but also in terms of impact on the individual. Harm to another legitimates political intervention. By recognizing and addressing harm regardless of the sphere within which it occurs, Mill grapples with the unique harm done to women in families.

Particularly troubling to feminist critics of liberalism is its perceived inability for dealing with the complexity of family life. Feminists fear that the liberal distinction between private and public inappropriately romanticizes families, sheltering supposedly free expressions of marital and parental love from damaging state intervention. Many feminists charge that this image of family life fails to portray reality accurately. Families also enslave, destroying individual integrity and hope. Parents abuse children; spouses abuse spouses.

Mill explicitly and potently meets this feminist challenge to liberalism. He recognizes the historical reality in which families capture and enslave women, in which husbands rape and maim, and in which women lack redress. But he does this while insisting on the possibility that the family may live up to the liberal promise of individual integrity; he does this while providing for familial sanctuary from the

dictates of political and social coercion. In essence, Mill's private-public distinction alleviates the potential harm done to women in families, while allowing room for individually chosen marital and parental arrangements. Mill's harm standard legitimates intervention in the family to bar one member from harming another. He views any other reason for intervention, such as moral repugnance or righteous distaste, as illegitimate, an inappropriate use of political power.

Rawls understands that individual choice demands not only freedom of action but also the material and cultural resources imperative to exercise that freedom. He employs an original position characterized by a veil of ignorance which reveals the fair terms of cooperation among individuals. Rawls' method seeks to remove personal bias in political reasoning; justice surfaces when each individual accounts for the needs of every other individual, when each individual possesses fair access to the primary goods necessary to maximize authentic individual choice. Feminists misinterpret the consequences of Rawls' method when they conclude that it yields an inhuman distinction between an impartial and particular perspective, between universal and particular concerns. Rather, Rawls' method allows an understanding of the particular concerns of another by removing the personal prejudices and motives of each.

By redefining private and public to explicitly include a concern for the distribution of resources necessary to

exercise true choice, Rawls advances the liberal agenda. Whereas Mill leaves open an avenue to such a policy, made manifest by seriously pursuing the implications of his positive notion of liberty, Rawls specifically charts the egalitarian consequence of grounding a political philosophy on liberty. Unlike Locke and Mill, Rawls consciously buttresses liberty with the worth of liberty, formal equality with substantive equality. Like Locke and Mill, Rawls begins with liberty as a first principle, but unlike them, he extends the liberal understanding of that first principle by explicitly supporting it with a second which demands fair equality of opportunity and fair access to primary goods.

Thus, Rawls broadens Mill's harm principle, recognizing that protection from harm alone will not suffice. Rather, genuine liberty demands fair play. His original position, and the principles derived from it, express the standards of fair play, of just societal conditions conducive to individual liberty. The difference principle furnishes the necessary background conditions of the first principle, of liberty. Specifically, Rawls' liberal principles provide for affirmative action aimed at alleviating the burdens of the least advantaged groups--including those burdened as members of an oppressed class based on sex.

Rawls' treatment of the family testifies to the potential of the liberal private-public distinction in confronting a variety of threats to individual liberty. In recognizing the

family both as an essential institution of the basic structure and as a private association, he incorporates the two dimensional nature of family life into the liberal paradigm: the liberal appreciation of the family as a chosen affectionate arrangement and the feminist perception of the family as a male dominated tyranny. Rawls comprehends the family as a significant barrier to opportunity, and offers a model aimed at removing that barrier, without undermining its integrity. As an institution of the basic structure, the principles of justice pertain to the family. When the circumstances of justice exist, that is, when conflicting interests motivate family members, the principles of justice dictate equal liberty followed by a distribution of resources which favors the least advantaged. This scheme strengthens the bargaining position, the possibility for genuine liberty of any oppressed member in the family. When affection replaces conflict, when a commonality of interest eliminates discord, justice provides the backdrop within which sincere affection and authentic individual choice prevails. Thus, Rawls' private-public distinction grapples with patriarchal families while preserving the liberal appreciation for the sanctity of family life.

Apparent in the evolution of ideas among the liberal thinkers studied here is an increasing understanding and integration of the material and relational bases of individual autonomy and choice. Liberalism expands to incorporate and address each new public and private threat to individual

liberty. Each of these three philosophers struggles to strike a balance between liberty and equality, between choice (that is, individual initiative which generates variety and inequality) and the equality necessary to actualize that choice. As each liberal thinker uncovers the implications and repercussions of a liberal political philosophy centered on individual choice, each furthers the liberal project by assimilating the dynamics of liberty at work in real social, political situations. In other words, the evolution among these liberal thinkers exposes a heightening sensitivity to the link between formal and substantive equality, between liberty and the worth of liberty.

In sum, liberalism, and its private-public distinction, begins in a concern for individual choice, evolving to an ever-growing awareness of the substantive bases of those choices. Women's empowerment requires just such an understanding of choice, of women's need for freedom from arbitrary patriarchal encroachments on their choice and of women's need for appropriate bases from which to exercise genuine choice. As such, despite many feminist assertions to the contrary, liberalism remains a potent weapon against oppression wherever it surfaces. Patriarchy begins in women's diminished choices in the family which reverberate throughout other social spheres. Liberalism combats patriarchy at its roots and in its effects by expanding individual choice in a variety of human relationships, including those relationships expressed

in the familial and economic spheres. Liberalism can recognize the pervasive character of patriarchy, its impact on all spheres of activity, while protecting the unique character and purpose of different spheres. Patriarchy taints economic, religious, political and familial relationships; liberalism can fight the patriarchy in these relationships without destroying them.

The demand by some feminists for an alternative political paradigm rests on a mistaken reading of liberalism. Rightly understood liberalism can accommodate many feminist versions of the appropriate private-public distinction. Indeed, in this reading, liberalism incorporates O'Brien's distinction between "intimate" and "public" space. This interpretation of liberalism also negates Pateman's rejection of its private-public distinction as overly and artificially separated and opposed, while integrating her call for a paradigm which distinguishes personal from political life.

Similarly, feminists who reject liberalism's abstract, impartial character fail to apprehend the potential of the liberal distinction between private and public. Contrary to this feminist reading, liberalism offers full theoretical support for a "communicative ethic" which integrates a situated analysis into political discussion; only an overly narrow reading of liberalism can justify the claim that this alternative lies beyond the reach of liberal politics.

Communicative ethics displaces the opposition which liberals supposedly impose between reason and feelings. Desires, particulars and emotions now gain entrance into the process of public justification; this situated analysis exposes the necessity of a redistributive as well as distributive politics. Correctly understood, however, liberalism allows the situated analysis these feminists desire. The impartial character of liberal politics some feminists reject actually encourages each person to fully appreciate and comprehend the particular perspective of another. One must step out of oneself to truly know another, especially when oppression and prejudice color, and narrow, our sympathy. In forcing persons to discount personal bias, Rawls encourages a "situated analysis" of the other person's circumstances. Liberalism facilitates, rather than negates, a communicative ethics and sheds light on the power relationships operating in society which require structural transformations over and above mere distribution. Once one fully understands another's oppression, one not only apprehends the personal impact of that oppression but also the structural dynamics behind it, the power relations which undermine self-respect and the real possibility of individual success.

The liberal private-public distinction looks very similar to the "differentiated continuum" to which many feminists appeal. Liberalism draws out the choices available in the multitude of relationships persons live, while fully

understanding the non-voluntary component of each of those relationships. Liberalism blends an appreciation of the possibility of choice with a growing cognizance of the threats to that choice. As such, liberalism apprehends the dual character of human life. On one hand, each person is victim to circumstance, to the physical and social particulars of one's birth. On the other, each is agent to the future, creatively choosing among alternatives, framing unique life plans from predetermined environments. In recognizing the peculiar constitution of each special sphere, liberalism maximizes choice in each while allowing insight into the non-voluntary components of diverse relationships. It assimilates the non-voluntarily acquired aspect of parenting, or mothering, with arrangements to accentuate the voluntary aspect of such relationships. Liberalism expands choice; women need not become mothers, or wives, because feasible options exist. Moreover, if one chooses to mother, liberalism undercuts the oppressive outcome of that choice.

Not only can liberalism accommodate many feminist alternatives, it also guards against those alternatives which threaten individual liberty, which require inappropriate violations of one sphere by another. Elshtain's "compassionate politics" for example, does reach beyond the limits of liberalism. Liberals cherish their adult status, seeking fairness in politics rather than dangerous, paternalistic compassion. While appropriate to the personal familial

sphere, compassion translates poorly to the political sphere where persons do not, cannot, know the particular desires and ends of every other person. In such circumstances, compassion endangers individuality, imposing tyrannically designated ends on adults reasonable enough to choose their own ends in situations of fair cooperation.

In general, anti-liberal feminists endanger their own agenda by dismissing the liberal paradigm. Rejecting liberalism entails a denial of the one essential feature of liberalism, a distinction between private and public spheres of activities. Private life, a realm where the individual may retreat from the social and political pressures of modern life, constitutes a fundamental component of liberalism and of the feminist aim of women's emancipation. Both sexes require an arena within which they are left alone, within which the individual, and her/his choices, reign. Liberalism constructs and protects such an arena. Feminism requires a liberal understanding of privacy if it hopes to protect individual choice.

Feminism can use this paradigm in order to expand women's choices, women's empowerment, while retaining the liberal protection of genuine choice from authoritarian encroachment. The liberal thinkers studied here reconciled the reality that individuals live in, and often cherish social groups, with an acknowledgment of the coercive character of those groups. They achieved this by recognizing both the private and public

dimensions of various human relationships. Locke began this liberal paradigm of private and public spheres by separating the political from other private spheres. Mill extended it by identifying legitimate and illegitimate reasons for political intervention in private lives. Rawls deepened the liberal understanding of private and public life by differentiating between the right and the good, between the reasonable and the rational. These philosophers have shown that individual liberty requires fair and explicit terms of cooperation, blended with the greatest possible latitude in choice.

The paradigm which liberalism offers to feminism is not one which creates a private-public distinction, but rather private-public distinctions. Inherent to liberalism, to each of the liberal philosophies studied here, is an identification of multiple spheres of life, each with its own character and dynamic. Indeed liberalism adopts this view as early as Locke and carries it through Rawls' notion of a community of communities. Liberalism protects an individual acting in a multitude of relationships, and respects the unique character of those various relationships, without falling prey to the relativism characteristic of the most recent expression of a "spheres of justice" approach espoused by Michael Walzer. Locke's natural law, Mill's utilitarianism, and Rawls' contract theory save them from the relativism implied by basing political ideals in "shared understandings." In each case explored here, liberal individuals act within a variety

of human relationships without ever being totally defined by any one, or group of those relationships. Through an exercise of genuine choice, individuals transcend the totality of their relationships.

Women's equality demands both the liberal recognition of a variety of spheres operating according to private and public dimensions and the liberal insight into individuality which transcends community. Women's history exposes the oppressive potential of community life, the danger inherent to shared understandings. Liberalism locates an individual who is not merely defined by that communal oppression, but who may also reach beyond those oppressive circumstances to express his or her own individuality. Liberalism maximizes the possibility for authentic choice, for individuals forming themselves, within the context of rich and diverse, sometimes oppressive, relationships.

Many questions remain unanswered, however. The public policy implications of these private-public distinctions need to be elaborated, struggled over, revised, implemented, and struggled over again. Liberalism offers a paradigm within which these policy discussions can take place. Although the complexity of human life and relationships deny us easy answers, standards such as harm and fairness offer us a rational, liberal base from which to begin these discussions.

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The final copies have been examined by the director of the dissertation and the signature which appears below verifies the fact that any necessary changes have been incorporated and that the dissertation is now given final approval by the Committee with reference to content and form.

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